

Monroe County Marine Management Strategic Plan

Appendix 1

Legal Overview and
General Policies Report

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TABLE OF CONTENTS

Introduction	1
Section 1: Legal Overview	2
The Waterway and Waterfront Improvement Act of 2005	2
The Existing Regulatory Framework	5
An Analysis of the Monroe County Year 2010 Comprehensive Plan	10
Section 2: General Policies Regarding the Working Waterfront.....	28
Programs	28
Regulatory Tools	29
Experience in Other Communities	31

Introduction

The Monroe County Board of County Commissioners (BOCC) acknowledged the urgent need to address the loss of both commercial and recreational “working waterfronts” in the Florida Keys following public meetings in the summer of 2004. In response, the BOCC directed the County’s Marine Resources Department to prepare a countywide public water access and marine management plan.

In July 2005, Commissioners approved a nine-month moratorium on all redevelopment and conversion of marine facilities, including commercial marinas and the working waterfront, until land development regulations and comprehensive plan amendments could be drafted. The moratorium is not to be lifted until the marine management plan is completed, the Monroe County Board of County Commissioners repeals the ordinance, or the nine-month time limit expires. The Monroe County Marine Management Strategic Plan compiles background information to be used in preparation of a subsequent Marina Siting Plan.

Comprising part of the overall Marine Management Strategic Plan, this document presents the overview of the legal environment surrounding the development of the Marine Management Strategic Plan (Section One, below). This overview is in three sections:

- The Waterway and Waterfront Improvement Act of 2005, which provides mechanisms and imposes mandates on local governments with respect to preserving working waterfronts throughout the State of Florida;
- The Existing Regulatory Framework affecting land use and zoning decisions in unincorporated Monroe County; and
- An Analysis of the Monroe County Year 2010 Comprehensive Plan as it applies to working waterfronts.

Following the Legal Overview, Section Two highlights General Policies Regarding the Working Waterfront. This part of the document describes:

Programs,

Regulatory Tools, and

Experience in Other Communities with respect to preserving and protecting the working waterfront.

Section 1: Legal Overview

The Waterway and Waterfront Improvement Act of 2005

This section outlines by subject area (including definitions) those provisions of the 2005 Waterway and Waterfront Improvement Act, Ch. 342.03, et seq., Florida Statutes, relevant to the Monroe County Marine Management Strategic Plan. The Act provides mechanisms and imposes mandates for Florida's local governments with respect to preserving and improving public water access and the working waterfront. The Act also establishes incentives, such as property tax deferral, for marine-related business/property owners to continue in that enterprise.

Public Access

Public access must be addressed and encouraged in every future land use plan.

Public access to waterways must be indicated in the recreational and open space element.

Public access is encouraged in sovereign submerged lands by the Board of Trustees for the Internal Improvement Trust Fund.

Business Owners

Allows property owners to defer ad valorem taxes and non-ad valorem assessments; provided that application and notification is made; and providing that the rate of deferral is specified, and that taxes, assessments, and interest deferred constitute a prior lien on the property. Yearly deferrals cannot be granted if the amount of deferred taxes, non-ad valorem assessments, and interest plus the total amount of all other unsatisfied liens on the property exceed 85 percent of the assessed value of the property (other restrictions can be found in 197.304).

Can lease or use submerged lands to the extent that it is not contrary to the public interest, and subject to limitations in ss.253.68-253.75, for aquaculture activities.

Waterfronts Florida Program

Establishes the Waterfronts Florida Program within the Department of Community Affairs. This program has been designed to implement the Waterfronts Florida Partnership Program in coordination with the Department of Environmental Protection. The program provides financial assistance to waterfront communities.

The purpose of the program is to provide technical assistance, support, training, and financial assistance to waterfront communities in their efforts to revitalize waterfront areas. Effort will be directed in the following areas:

- protecting environmental and cultural resources,
- providing public access,
- mitigating hazards,
- enhancing the viable traditional economy.

Financial assistance may be provided to a limited number of eligible local governments to develop local plans to further the purpose of the program.

Information and technical assistance will also be made available for preserving traditional recreation and commercial working waterfronts.

State Government

- Requires the Department of Environmental Protection and water management districts to adopt programs to expedite the processing of wetland resource and environmental resource permits for marina projects that reserve at least 10 percent of available boat slips for public use.
- Requires the Department of Environmental Protection to develop procedures and requirements governing the Waterfronts Florida Partnership program eligibility, application procedures, and application review.
- The Department of Environmental Protection must help implement the efforts of the Waterfronts Florida Program.
- The Board of Trustees of the Internal Improvement Trust Fund shall encourage the use of sovereign submerged lands for water-dependent uses and public access.
- Allows submerged lands and water column to be leased or used for aquaculture activities.

The Department of Environmental Protection, in coordination with the Fish and Wildlife Conservation Commission must undertake a study evaluating the current use of state parks for purposes of recreational boating and identify opportunities for increasing recreational boating access within the state park system.

Local Government

- Requires future land use plan element to include criteria to encourage the preservation of recreational and commercial working waterfronts; including public access to waterways within those items indicated in a recreational and open space element.
- Must provide an annual report to the Fish and Wildlife Conservation Commission enunciating the state's interest in maintaining recreational and commercial working waterfront (certain counties can be exempted).

- Allows counties to adopt tax deferral ordinances for recreational and commercial working waterfront properties if the owners are engaging in the operation, rehabilitation, or renovation of such properties.
- The ordinance must designate the type and location of working waterfront property for which deferrals may be granted, must specify that such deferrals apply only to taxes levied by the unit of government granting the deferral.
- The ordinance must specify that any deferral granted remains in effect regardless of any change in authority of the county or municipality to grant the deferral.
- The ordinance must require that the use and ownership of the property as a working waterfront must be maintained over the period for which the deferral is granted.
- If the application for deferral is granted on a property that is located in a community redevelopment area, the amount of taxes eligible for deferral shall be reduced.
- The recreational and open space element of a comprehensive plan must indicate areas where public access to waterways can be achieved.
- The coastal management element of a comprehensive plan must include strategies that will be used to preserve recreational and commercial working waterfronts.
- Allows submerged lands and water column to be leased or used for aquaculture activities.
- Allows Waterfront communities to apply for the Waterfronts Florida Partnership and gain the benefits thereof.

Counties that demonstrate through an annual detailing accounting report of vessel registration revenues that at least \$1 of the registration fees were spent on boating infrastructure shall only be required to transfer the first \$1 of the fees to the Save the Manatee Trust Fund.

Fees

Revises the distribution of vessel registration fees to create a trust fund used for making grants to fund public launching facilities for. Specifically, \$1 of the Manatee Trust Fund is remitted to the state for deposit into the Marine Resources Conservation Trust Fund to fund a grant program for public launching facilities, giving priority to counties with more than 35,000 registered vessels.

Definitions Under the Act

Recreational and Commercial Working Waterfront means a parcel or parcels of real property that provides access for water-dependent commercial activities or provides 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 government vessels. These facilities include docks, wharfs, lifts, wet and dry marinas, boat ramps, boat hauling and repair facilities, commercial fishing facilities, boat construction facilities, and other support structures over the water.

Aquaculture means the cultivation of aquatic organisms and associated activities, including, but not limited to, grading, sorting, transporting, harvesting, holding, storing, growing, and planting.

Aquaculture Activities means any activities, as determined by board rule, related to the production of aquacultural products, including, but not limited to, producing, storing, handling, grading, sorting, transporting, harvesting, and aquaculture support docking.

Waterfront Community means a municipality or county that is required to prepare a coastal element for its local government comprehensive plan.

The Existing Regulatory Framework

The Monroe County regulatory environment extends beyond its own local laws, ordinances, and regulations. The Federal and State government each have adopted legislation to protect certain aspects of the Florida Keys. For example, the Federal Government passed the Florida Keys National Marine Sanctuary and Protection Act in 1990 to protect the environmentally sensitive waters surrounding the Keys. The State of Florida has declared Monroe County an Area of Critical State Concern to address issues dealing with the local economy, environment, and community needs. It was this designation that led to the creation of a carrying capacity study and a new system for permitting development (the Tier System). An overview of the locally adopted Monroe County Year 2010 Comprehensive Plan is provided at the end of this section. The Year 2010 Comprehensive Plan is described in more detail in Part III because it addresses a variety of concerns of the State, while more specifically addressing the needs and desires of the local community, offering a vision for the future.

Federal Regulations

Florida Keys National Marine Sanctuary Protection Act

The water surrounding the Florida Keys is home to a spectacular marine environment, consisting of sea grass meadows, mangrove islands, and living coral reefs. These environments are considered to be equivalent to the tropical rain forests found in other places in the world. Also, the marine environments found in the Keys support rich biological communities that are treasured for their ecological, recreational, commercial, educational, historic, and esthetic value. The growing threat to these areas prompted the U.S. Congress to enact the Florida Keys National Marine Sanctuary and Protection Act of 1990. Under this Act, the National Oceanic and Atmospheric Administration (NOAA) in the Department of Commerce was directed to develop regulations that would better protect marine resources, lessen duplication of efforts, provide opportunities for increased interagency coordination, and ultimately result in taxpayer savings. This allows specific management practices to be implemented in order to protect, manage, and conserve the living and non-living resources of the Keys', improve water quality and prevent the further degradation of marine habitats. The coral reefs surrounding the keys face enormous pressure from human activities such as boating, fishing, and diving. Deliberate protection was needed to ensure their long term sustainability.

Marine Zoning

Marine zoning is a management tool widely used around the world to protect sensitive marine resources from overuse and to reduce user conflicts. It is also a major strategy used to communicate permissible uses to those that enjoy the ocean waters for recreation or depend on them for economic production. Designated zones are established by the use of markings such as buoys and enforced by marine-based officers. There are five zone types created by NOAA to assist marine users in the Keys: (1) wildlife management areas, (2) ecological reserves, (3) sanctuary preservation areas, (4) existing management areas, and (5) special-use areas. Depending on the zoning designation, the marine users can be substantially limited in the activities that can be legally performed in the Keys' waters. The regulatory action plan designed as a component of the implementation strategy is available to guide any future designations.

Wildlife management areas are established to minimize disturbance to sensitive wildlife populations and their habitats. Regulations governing access are designed to protect endangered or threatened species, while providing opportunities for public use. Water use restrictions included no-access buffers, no-motor zones, idle speed only zones, no wake zones, and closed zones.

Ecological reserves are designed to encompass large, contiguous diverse habitats. They are intended to provide natural spawning, nursery, and permanent residence areas for the replenishment and genetic protection of marine life and to protect and preserve all habitats and species, particularly those not protected by fishery management regulations. These reserves are intended to protect areas that represent the full range of

diversity of resources and habitats found throughout the sanctuary. The intent is to meet these objectives by limiting consumptive activities, while continuing to allow activities that are compatible with resource protection. This will provide the opportunity for these areas to evolve in a natural state, with a minimum of human influence. These zones will protect a limited number of areas that provide important habitat for sustaining natural resources such as fish and invertebrates.

Sanctuary Preservation Areas will focus on the protection of shallow, heavily used reefs, where conflicts occur between user groups, and where concentrated visitor activity leads to resource degradation. They are designed to enhance the reproductive capabilities of renewable resources, protect areas critical for sustaining and protecting important marine species, and reduce user conflicts in high use areas. This will be accomplished through a prohibition of consumptive activities within these areas. They have been designated based on the status of important habitat, the ability of a particular area to sustain and protect the habitat, the level of visitor use, and the degree of conflict between consumptive and nonconsumptive users. The actual size and location of these zones have been determined by examination of user patterns, aerial photography, and groundtruthing of specific habitats.

Existing Management Areas identify areas that are managed by other agencies where restrictions already exist. These zones delineate the existing jurisdictional authority of other agencies (i.e., state parks, aquatic preserves, sanctuaries, and other restricted areas). Management of these areas within the sanctuary may require additional regulations or restrictions to adequately protect resources. Any additional management measures will be developed and implemented in coordination with the agency having jurisdictional authority. Their function is not to establish another layer of bureaucracy, but to recognize management areas and, at a minimum, to complement the existing management programs, ensuring cooperation and coordination with other agencies.

Special-use Areas are used to set aside areas for scientific research and educational purposes, restoration, monitoring, or to establish areas that confine or restrict activities, such as commercial personal watercraft operations, and establish live-aboard mooring fields. These areas will minimize impacts on sensitive habitats and reduce user conflicts. Special management programs (e.g., monitoring, research, special-use permits, and restoration) can be conducted without impediment in these areas. They can be used to set aside areas for specific uses such as long-term research and monitoring and/or minimizing the adverse environmental effects of high impact activities. These zones will be limited in their length of duration.

Florida Keys National Marine Sanctuary Management Plan

In addition to marine zoning, the Florida Keys National Marine Sanctuary Management Plan has been developed to address many of the issues facing the Keys' marine environment. It uses a predominantly non-regulatory approach by focusing on the need to educate the public, and to provide alternatives that have less impact on the environment. The management strategies include research and monitoring, education

and outreach, channel marking, use of mooring buoys, volunteerism, and law enforcement coordination.

State Regulation

Area of Critical State Concern

Monroe County was declared an Area of Critical State Concern in 1975 to ensure the long-term sustainability of the Keys. Issues such as protecting the natural environment and character of the Keys were a major concern. Also, the declaration was intended to address concerns for affordable housing, to maintain adequate public facilities, to support a sound economic base, to protect property rights, and to require adequate emergency planning and post disaster planning to ensure public safety. Monroe County created the Year 2010 Comprehensive Plan to address these concerns, but after a series of legal challenges, the County was ordered to initiate a five-year work program to make planning improvements and to conduct a Florida Keys Carrying Capacity Study to assess the ability of the Keys' ecosystem to protect against the impacts of additional land development activities.

Work Study Program¹

The Year Six Workforce Plan Assessment identified six tasks:

- Continue to construct wastewater facilities in accordance with the Monroe County Wastewater Master Plan's focus and schedule of implementation.
- Initiate construction of projects outlined in the Monroe County Stormwater Master Plan.
- Implement the recommendations made in the Carrying Capacity Study.
- Complete the elimination of all cesspits in areas outside of "hot spots."
- Develop a land acquisition plan across the Keys to preserve areas of rich environmental habitat and guide future development.
- Initiate a collaborative process for the adoption of land development regulations and/or comprehensive plan amendments that will strengthen the protection of terrestrial habitat and the preservation and maintenance of affordable housing stock.

Florida Keys Carrying Capacity Study²

The Florida Keys Carrying Capacity Study was completed in 2002. The study addressed habitat protection and land acquisition, rate of growth allocation, and affordable housing and funding. In order to ensure habit protection, four guidelines were suggested as a direct result of the study: (1) Prevent encroachment into native

¹ <http://www.dca.state.fl.us/fdcp/dcp/acsc/Monroe%20Co.%20Assessment.pdf>

² www.dca.state.fl.us/fdcp/dcp/acsc/final.pdf

habitat. (2) Continue and intensify land acquisition programs, wastewater management, and restoration efforts. (3) Focus on redevelopment and infill. (4) Increase efforts to manage resources to effectively preserve and improve the ecological values of the remaining terrestrial ecosystems. The study also recommended that the rate of growth allocation consider the environmental sensitivity of the land based on a Tier System and be accelerated under the condition that affordable housing units be created. It was also recommended that opportunities to create and maintain affordable housing be maximized by creating public/private partnerships and buying affordable housing sites to ensure their affordable status.

Local Regulation

Monroe County Year 2010 Comprehensive Plan

The Monroe County Year 2010 Comprehensive Plan sets forth two goals, which form the basis for protecting the working waterfront and public access to the waterfront. Goal 212 of the Year 2010 Comprehensive 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. Goal 213 of the 2010 Comprehensive Plan directs the County to ensure adequate public access to the beach or shoreline.

Four zoning codes appear to specifically address the working waterfront: Commercial Fishing Area (CFA), Commercial Fishing Village (CFV), Commercial Fishing Special (CFS), and Mixed Use District (MU). The Commercial Fishing Area (CFA) District allows for the most intense commercial fishing operations. There are no restrictions specified for commercial fishing operations in the zoning definition. Commercial Fishing Village also allows for commercial fishing activities but they must be limited in scale. Commercial Fishing Special (CFS) District does not prohibit the commercial fishing operations already in existence, but does not encourage any new commercial fishing activities. The Mixed Use District allows for commercial fishing operations to exist if it can be reasonably integrated with other uses, and is compatible with the character of the community.

The Tier System

The Tier System was created to address the future development of land that is in private ownership and remains vacant today. The Tiers are categorized into 3 levels: (1) Conservation, Restoration, and Protection, (2) Transition, Reduce Sprawl, and (3) Redevelopment and Infill Development. Maps depicting Tier designation will be used to overlay onto current zoning maps to determine appropriate use and intensity of future development or redevelopment.

Tiers will also be used as part of Monroe County's 20-year land acquisition program. Tier I land will be the most-aggressively pursued due to its environmentally sensitive designation. These areas will be set aside for conservation, restoration, and protection

and are often found adjacent to existing publicly owned lands and/or high quality habitat. Tier II land consists of subdivisions that are less than 50% built out, lacking necessary infrastructure, or contain less than 4 acres of isolated environmentally sensitive land. Tier III land consists of land that is greater than 50% built out, presently equipped with infrastructure, or currently planned for development.

In unincorporated Monroe County, there are 8,260 acres (6,327 parcels) of vacant land designated as Tier I and in private ownership. There are 471 acres (2,361 parcels) of vacant land designated as Tier II and in private ownership, and there are 1,055 acres (4,681 parcels) of vacant land designated as Tier III in private ownership. Of 9,786 total acres of privately-held, undeveloped land in unincorporated Monroe County, 84 percent is classified as Tier I, 5 percent is Tier II, and 11 percent is Tier III.

Rate of Growth Ordinance (ROGO)

The rate of growth ordinance is based upon the ability to safely evacuate the Florida Keys in 24 hours. In 1992, it was determined that 2,550 residential permits could be allocated while still maintaining a 24 hour standard. Monroe County decided that permits would be allocated over a ten year period (255 each year). In 2001, a study was conducted to determine the time needed to evacuate the Keys. It was determined that 25 hours was needed.

An Analysis of the Monroe County Year 2010 Comprehensive Plan

The purpose of this summary is to attempt to identify and encapsulate elements of the Monroe County Year 2010 Comprehensive Plan that may be useful in the preparation of a Marine Management Strategic Plan for Monroe County.

Subjective discretion was used in determining what information from the plan should be included in this summary. While the summary is thorough, it is possible that some components of the Year 2010 Comprehensive Plan useful to the preparation of the Monroe County Marine Management Strategic Plan may have been overlooked. It is recommended that the complete plan be consulted if questions arise involving elements of the Year 2010 Comprehensive Plan.

Originally adopted by the Monroe County Board of County Commissioners in April of 1993, the Year 2010 Comprehensive Plan has been revised several times with the most recent update occurring in June of 2003. In August of 2004 the Florida Department of Community Affairs issued a Notice of Intent to Find Monroe County Year 2010 Comprehensive Plan Amendment in Compliance.

The Year 2010 Comprehensive Plan contains the following elements:

Future Land Use	Sanitary Sewer
Conservation and Coastal Management	Drainage
Traffic Circulation	Natural Groundwater Aquifer Recharge
Mass Transit	Recreation and Open Space
Ports, Aviation and Related Facilities	Intergovernmental Coordination
Housing	Capital Improvements
Potable Water	
Solid Waste	

Each of the comprehensive plan elements was reviewed for relevance to the crafting of a Marine Management Strategic Plan. Specific attention is given to the concept of working waterfronts and what may actually constitute one. For example “recreational use” or “recreational boating” is included in this summary. The rationale behind including this is that while recreational boating in itself probably does not fit the surface definition of a “working waterfront,” the waterfront uses (boat ramps, dockside services, entertainment and dining etc.) required by pleasure boaters probably does. If not specifically designated “passive” it seems that a park with water access could fit this category.

Elements 1, 2, and 12 are the source for much of information in this summary. Elements 5 and 6 were included to provide additional information that may be useful at one point in preparing the Monroe County Marine Management Strategic Plan. No applicable material was obtained from elements 3, 4, 7-11 or 13 -14. Land-use goals and objectives are included because they are pertinent to the creation of the Marine Management Strategic Plan. Environmental passages alluding to water quality, etc., while an essential part of the plan were largely omitted from this summary because it was thought that it would not be relevant to the Marine Management Strategic Plan.

In some cases an explanation is required to clarify why a component is included in the summary. This explanation will be italicized and will follow the particular component. Italicized remarks are for clarity and are not part of the Monroe County Year 2010 Comprehensive Plan.

A reading of the summary will not substitute for a reading of the entire plan however it should provide a working background of the Monroe County Year 2010 Comprehensive Plan that will enable researchers working on the Monroe County Marine Management Strategic Plan to have a general understanding of what is currently in place.

Element 1: Future Land Use Element

GOAL 101 - Monroe County shall manage future growth to enhance the quality of life, ensure the safety of County residents and visitors, and protect valuable natural resources. [9J-5.006(3)a]

Objective 101.1

Monroe County shall ensure that at the time a development permit is issued, adequate public facilities are available to serve the development at the adopted level of service standards concurrent with the impacts of such development. [9J-5.006(3)(b)1]

Policy 101.1.1

Monroe County shall adopt level of service (LOS) standards for the following public facility types required by Chapter 9J-5, F.A.C: roads, sanitary sewer, solid waste, drainage, potable water, parks and recreation, and paratransit. The LOS standards are established in the following sections of the Comprehensive Plan:

- The LOS for roads is established in Traffic and Circulation Policy 301.1.1;
- The LOS for potable water is established in Potable Water Policy 701.1.1;
- The LOS for solid waste is established in Solid Waste Policy 801.1.1;
- The LOS for sanitary sewer is established in Sanitary Sewer Policy 901.1.1;
- The LOS for drainage is established in Drainage Policy 1001.1.1; and
- The LOS for parks and recreation is established in Recreation and Open Space Policy 1201.1.1. [5.006(3)(c)3]

* The provision of public recreational in facilities objective 101.1 and Policy 101.1.1. is included solely to raise the possibly of a “working waterfront” including recreational boating (and facilities).

Objective 101.3

Monroe County shall regulate non-residential development to maintain a balance of land uses to serve the needs of the future population of Monroe County.

Policy 101.3.1

Monroe County shall maintain a balance between residential and non-residential growth by limiting the gross square footage of non-residential development over the 15 year planning horizon in order to maintain a ratio of approximately 239 square feet of nonresidential development for each new residential unit permitted through the Permit Allocation System. The ratio for commercial allocation shall be revised upon completion of the economic baseline analysis required by policy 101.3.5 which shall be completed no later than January 4, 1997. The commercial allocation allowed by this policy shall be uniformly distributed over the 15 year planning horizon consistent with the residential permit allocation system as set forth in policy 101.2.1. Within one year of

the effective date of this plan, Monroe County shall amend this policy to specify the annual allowable square footage based upon the number of residential units allowed by year using the ratio set forth in this policy.

Policy 101.3.5

By January 4, 1998, Monroe County shall complete an economic base analysis in order to determine the demand for future non-residential development. The non-residential development allocation and Future Land Use Map (FLUM) designations for nonresidential uses shall be revised based upon the results of this study. The economic base analysis will address existing non-residential uses, vacancy rates, economic trends and demand for non-residential uses by planning sub-area.

* Objective 101.3 and subsequent policies are included because of the specific residential, non-residential ratios and their potential relation to the Marine Management Strategic Plan. The results of the economic base analysis for both the commercial allocation called for in Policy 101.3.5.

Objective 101.4

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]

* Maintaining the “character of the community” is specifically called for in the plan.

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. This land use category is also intended to allow for the establishment of mixed use development patterns, where appropriate. Various types of residential and nonresidential 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:

- only low intensity commercial uses shall be allowed;
- a maximum floor area ratio of 0.10 shall apply; and
- 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 and related traditional uses such as retail, storage, and repair and maintenance which support the commercial fishing industry. Residential uses are also permitted. 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:

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

Policy 101.4.7

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

* Included to denote the existence and specificity of the commercial fishing land use designation.

Policy 101.4.9

The principal purpose of the Recreation land use category is to provide for public and private activity-based and resource-based recreational facilities. [9J-5.006(3)(c)1 and 7]

* Recreational land use category may be of use.

Policy 101.4.21

Monroe County hereby adopts the following density and intensity standards for the future land use categories, which are shown on the Future Land Use Map and described in Policies 101.4.1 - 101.4.17: [9J-5.006(3)(c)7].

* Contains the Mixed use/Commercial fishing and Recreational land use category.

Future Land Use Densities and Intensities			
Future Land Use Category and Corresponding Zoning	Allocated Density (per acre)	Maximum Net Density (per buildable acre)	Maximum Intensity (floor area ratio)
Agriculture (A) (no directly corresponding zoning)	0 du 0 rooms/spaces	N/A N/A	0.20-0.25
Airport (AD) (AD zoning)	0 du 0 rooms/spaces	N/A N/A	0.10
Conservation (C) (CD zoning)	0 du 0 rooms/spaces	N/A N/A	0.05
Education (E) (no directly corresponding zoning)	0 du 0 rooms/spaces	N/A N/A	0.30
Industrial (I) (I and MI zoning)	1 du 0 rooms/spaces	2 du N/A	0.25-0.60
Institutional (INS) (no directly corresponding zoning)	0 du 3-15 rooms/spaces	N/A 6-24 rooms/spaces	0.25-0.40
Mainland Native (MN) (MN zoning)	0.01 du 0 rooms/spaces	N/A N/A	0.10
Military (M) (MF zoning)	6 du 10 rooms/spaces	12 du 20 rooms/spaces	0.30-0.50
Mixed Use/Commercial (MC) ^(b) (SC, UC, DR, RV, and MU zoning)	1-6 du 5-15 rooms/spaces	6-18 du 10-25 rooms/spaces	0.10-0.45
Mixed Use/Commercial Fishing (MCF) ^(b) (CFA, CFV ^(c) , CFSD zoning)	Approx. 3-8 du 0 rooms/spaces	12 du 0 rooms/spaces	0.25-0.40
Public Facilities (PF) (no directly corresponding zoning)	0 du 0 rooms/spaces	N/A N/A	0.10-0.30
Public Buildings/Grounds (PB) (no directly corresponding zoning)	0 du 0 rooms/spaces	N/A N/A	0.10-0.30
Recreation (R) (PR zoning)	0.25 du 2 rooms/spaces	N/A N/A	0.20
Residential Conservation (RC) (OS and NA zoning)	0-0.25 du 0 rooms/spaces	N/A N/A	0-0.10
Residential Low (RL) (SS ^(d) , SR, and SR-L zoning)	0.25-0.50 du 0 rooms/spaces	5 du N/A	0.20-0.25
Residential Medium (RM) (IS zoning)	approx. 0.5-8 du (1 du/lot) 0 rooms/spaces	N/A N/A	0
Residential High (RH) (IS-D ^(e) , URM ^(e) , and UR ^(f) zoning)	approx. 3-16 du (1-2 du/lot) 10 rooms/spaces	12 du 20 rooms/spaces	0
Notes:			
(a) "N/A" means that maximum net density bonuses shall not be available.			
(b) The allocated densities for submerged lands, salt ponds, freshwater ponds, and mangroves shall be 0 and the maximum net densities bonuses shall not be available.			
(c) The allocated density for CFV zoning shall be 1 dwelling unit per lot and the maximum net density bonuses shall not be available.			
(d) Maximum net density bonuses shall not be available to the SS district.			
(e) The allocated density for IS-D and URM zoning shall be 2 and 1 dwelling units per lot, respectively and the maximum net density bonuses shall not be available.			
(f) The maximum net density for the UR district shall be 25 for units where all units are designated as affordable housing.			
(g) For properties consisting of hammocks, pinelands or disturbed wetlands within the Mixed Use/ Commercial and Mixed Use/ Commercial Fishing land use categories, the floor area ratio shall be 0.10 and the maximum net residential density bonuses not apply.			
(h) Uses under the categories of Agriculture, Education, Institutional, Public Facilities, and Public Buildings and Uses, which have no directly corresponding zoning, may be incorporated into new or existing zoning districts as appropriate.			

Editor's Note: At this juncture it is useful to note that Monroe County also has the following zoning designations in place to help implement the Year 2010 Comprehensive Plan.

Urban Commercial District (UC) designates areas for high-intensity commercial uses intended to serve retail sales and service, professional services and resort activity needs at a regional or multiple planning area scale. This district should be established at discrete nodes along U.S. 1 and should be designed to serve the needs of both residents and visitors.

Urban Residential District (UR) provides areas appropriate for high-density residential uses designed and intended for occupancy by persons gainfully employed in the Florida Keys and creates areas to provide for vacation rental use of detached dwellings, duplexes, and multifamily dwellings. This district should be established at or near employment centers.

Urban Residential Mobile Home District (URM) recognizes the existence of established mobile home parks and subdivisions, but does not create new such areas, and provides for such areas to serve as a reservoir of affordable and moderate-cost housing in Monroe County.

Urban residential Mobile Home-Limited District (URML-L) recognizes the existence of parks and subdivisions which consist exclusively, or almost exclusively, of mobile homes, but does not create new such areas, in order to permit property owners in such areas to replace or establish mobile homes below base flood elevation as authorized by certified federal regulations.

Sub Urban Commercial District (SC) establishes areas for commercial uses designed and intended primarily to serve the needs of the immediate planning area in which they are located. The district should be established at locations convenient and accessible to residential areas without use of U.S. 1.

Sub Urban Residential District (SR) establishes areas of low to medium density residential uses characterized primarily by single-family detached dwellings.

Sub Urban Residential District - Limited (SRL) establishes areas of exclusive low to medium density residential uses.

Sparsely Settled Residential District (SS) establishes areas of low density residential development where the predominant character is native or open space lands.

Native Area District (NA) establishes areas that are undisturbed, with the exception of existing solid waste facilities, and because of their sensitive environmental character should be preserved in their natural state.

Mainland Native District (MN) protects the undeveloped and environmentally sensitive character of lands within Monroe County that are located on the mainland of the Florida Peninsula.

Offshore Island District (OS) establishes areas that are not connected to U.S. 1 as protected areas, served by cisterns, generators, and other self-contained facilities.

Improved Subdivision District (IS) accommodates the legally vested residential development rights of the owners of lots in subdivisions that were lawfully established and improved prior to the adoption of this chapter. For the purpose of this section, improved lots are those which are served by a dedicated and accepted existing road of porous or non porous material, that have a Florida Keys Aqueduct Authority approved potable water supply, and that have sufficient uplands to accommodate the proposed use in accordance with the required setbacks. This district is not intended to be used for new land use districts of this classification within the county.

Destination Resort District (DR) establishes areas suitable for the development of planned tourist centers providing on-site residential, recreational, commercial, and entertainment facilities of a sufficient magnitude to attract visitors and tourists for tenancies of three or more days. Destination resorts are contemplated to contain (1) single-family homes as of right, or (2) one or more resort hotels as the principal use, to utilize the water-related natural resources of the Keys, and to be located on sites of at least ten gross acres where the location and character of the site and the development itself and amenities are such that off-site impacts will be reduced.

Recreational Vehicle District (RV) establishes areas suitable for the development of destination resorts for recreational vehicles. This district contemplates developments that provide on-site recreational, commercial, and resort facilities.

Commercial Fishing Area District (CFA) establishes areas suitable for uses which are essential to the commercial fishing industry, including sales and service of fishing equipment and supplies, seafood processing, fishing equipment manufacture and treatment, boat storage, and residential uses.

Commercial Fishing Village District (CFV) establishes areas where limited commercial fishing activities, including the mooring of boats, the non-mechanized off-loading of catches, the storage of a limited number of traps, and residential uses, can be integrated.

Commercial Fishing Special District (CFS) establishes areas where various aspects of commercial fishing have been traditionally carried out while prohibiting the establishment of additional commercial fishing uses which are inconsistent with the natural environment, immediate vicinity, or community character of the area.

Mixed Use District (MU) establishes or conserves areas of mixed uses, including commercial fishing, resorts, residential, institutional, and commercial uses, and preserves these as areas representative of the character, economy, and culture of the Florida Keys.

Industrial District (I) establishes areas that are suitable for the development of industrial and manufacturing warehousing and distribution uses.

Maritime Industries District (MI) establishes and conserves areas suitable for maritime uses such as ship building, ship repair, and other water-dependent manufacturing and service uses.

Military Facilities District (MF) establishes areas for military facilities and installations and ensures to the maximum extent allowed by federal law, that all development activity within such areas is consistent with the Monroe County Year 2010 Comprehensive Plan.

Airport District (AD) prohibits the development of residential, educational, or other uses which are characterized by the regular presence of large numbers of people within the hazard areas of civil and military airports.

Park and Refuge District (PR) establishes and protect areas like parks, recreational areas and wildlife refuges.

Conservation District (CD) provides an area acquired for conservation purposes or subject to deed restrictions limiting the use of the property for conservation purposes.

Returning to the language in the Comprehensive Plan:

Objective 101.7

Monroe County shall evaluate potential redevelopment areas and prepare redevelopment plans for areas determined to be in need of redevelopment. [9]-5.006(3)(b)2]

Policy 101.7.1

By January 4, 1998, Monroe County shall conduct a needs assessment of potential redevelopment areas. This assessment shall analyze land use changes, property values, structural conditions, business climate, renter/owner ratios, commercial and residential vacancy rates, and other indicators of economic vitality and physical living conditions for which information is available.

Policy 101.7.2

By January 4, 1998, Monroe County shall complete a community plan for Stock Island which shall address redevelopment needs identified by the needs assessment of potential redevelopment areas. Preparation and funding of this plan shall be coordinated with the City of Key West.

Objective 101.8

Monroe County shall eliminate or reduce the frequency of uses which are inconsistent with the applicable provisions of the land development regulations and the Future Land Use Map, and structures which are inconsistent with applicable codes and land development regulations. [9]-5.006(3)(b)3]

Policy 101.8.4

With the exception of non-conforming uses located in the Mixed Use/Commercial Fishing Future Land Use category, if a structure in which a non-conforming use is located is damaged or destroyed so as to require substantial improvement, then the structure may be repaired or restored only for uses which conform to the provisions of the Future Land Use category and zoning district in which it is located. [9J-5.006(c)2]

Policy 101.8.6

Non-conforming uses existing as of September 15, 1986 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.

Objective 101.11

Monroe County shall implement measures to direct future growth away from environmentally sensitive land and towards established development areas served by existing public facilities. [9J-5.006(3)(b)4 and 7]

Policy 101.11.1

By January 4, 1997, Monroe County shall adopt Land Development Regulations which establish a Point System to encourage a compact pattern of development (see Objective 101.5 and supporting policies).

GOAL 102 - Monroe County shall direct future growth to lands which are intrinsically most suitable for development and shall encourage conservation and protection of environmentally sensitive lands. [9J-5.006(3)(a)]

Objective 102.4

By January 4, 1998, Monroe County shall establish the Monroe County Natural Heritage and Park Program. The purpose of this program shall be to acquire lands and open space in the public interest for conservation and recreation purposes. [9J-5.006(3)(b)4]

* This objective and subsequent policies are again tied to the recreational aspect of the working waterfront. The possibility of potential acquisition (and funding of) lands for this purpose is the reason for its inclusion in this summary.

Policy 102.4.1

The Monroe County Natural Heritage and Park Program shall be developed and implemented by the Growth Management Division, in cooperation with the Parks and Recreation Board and other knowledgeable county and state agencies. [9J-5.006(3)(c)4 and 6]

Policy 102.4.4

An acquisition financing plan shall be developed annually which identifies potential sources of funding for acquisition for lands on the Priority List. Funding sources which shall be considered include the following:

- Florida Recreation Development Assistance Program;
- Preservation 2000 Trust Fund
- Conservation and Recreation Lands (CARL) Program;
- Land and Water Conservation Fund;
- Urban Parks and Recreation Recovery (UPARR) Action Grants;
- local funds made available from fair share community park impact fees (paid pursuant to the Monroe County Land Development Regulations); and
- Local funds as may be made available through special appropriation by the Monroe County Board of County Commissioners. [9J-5.006(3)(c)4 and 6]

Policy 102.4.6

Lands acquired through the Natural Heritage and Park Program shall be managed to preserve and protect the conservation and recreation purposes for which the lands were acquired. (See Recreation and Open Space Objective 1201.11 and related policies.) [9J-5.006(3)(c)4 and 6]

Element 2: Conservation and Coastal Management

GOAL 212 - 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)]

* This goal and the following objectives and policies address the unique issues of shoreline development and appear to clearly develop a policy encouraging mixed-use shoreline development.

Objective 212.1

By January 4, 1998, Monroe County shall develop and implement measures for regulating shoreline uses consistent with the following order of priorities:

- water-dependent uses;
- water-related uses; and
- uses that are not dependent upon or related to shoreline access. [9J-5.012(3)(b)3]

Policy 212.1.1

By January 4, 1998, Monroe County shall develop a Shoreline Use Priorities Plan which shall provide for siting of water-dependent and water-related uses consistent with the

following order of priority: 1) water-dependent uses, 2) water-related uses, and 3) uses that are not dependent upon or related to shoreline access. The plan shall accomplish the following:

- establish performance standards for shoreline development, consistent with criteria for marina siting (see Objective 212.4 and related policies);
- identify environmentally suitable waterfront areas and recommend strategies for reserving such areas for water-dependent and water-related development sites consistent with estimated need;
- analyze conflicts among existing shoreline uses and recommend strategies for reducing or eliminating such conflicts; and
- identify strategies for encouraging appropriate mixed use development that includes water-dependent and water-related uses and is compatible with existing land uses. [9J-5.012(3)(c)8]

Policy 212.1.2

By January 4, 1998, Monroe County shall:

- adopt an amendment to the Comprehensive Plan which incorporates recommendations of the Shoreline Use Priorities Plan; and
- adopt Land Development Regulations which regulate existing and new shoreline development consistent with the recommendations of the Shoreline Use Priorities Plan. [9J-5.012(3)(c)8]

Policy 212.1.3

Monroe County shall maintain existing commercial fishing operations as conforming uses. [9J-5.012(3)(c)8]

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]

* This objective and the following policies are included because of the marina siting specificities.

Policy 212.4.1

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

- A marina survey is completed; and
- 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:

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

- benthic vegetation and faunal assemblages;
- adequacy of circulation and tidal flushing;
- access to deep water through existing channels of adequate depth (see Policy 212.5.2);
- minimal shoreline modification necessary;
- quality and size of upland areas and degree of alteration necessary;
- ability to restore and enhance marina resource values at sites subject to past alteration;
- location of propeller dredging problem areas; and
- impact of boats on crocodiles, manatees, and turtles. [9J-5.012(3)(c)1,2,3 and 8; 9J-5.013(2)(c)1 and 6]

Policy 212.4.4

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

- Monroe County's marina siting criteria (see Policy 212.4.3);
- Monroe County's dock siting criteria (see Objective 212.5 and related policies); and
- 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 212.4.5

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

Monroe County's dock siting criteria (see Objective 212.5 and related policies); and
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

Applicants for a permit to develop a new 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]

Objective 212.5

By January 4, 1997, Monroe County shall adopt revisions to the Land Development Regulations pertaining to mooring fields and structures built over water (including, but not limited to, boat docks, fishing piers, swimming piers and observation decks). [9J-5.012(3)(b)1,2 and 3; 9J-5.013(2)(b)2]

Policy 212.5.1

Monroe County shall support state policies and regulations concerning the permitting of marinas, docks and piers, except in those instances where more stringent regulations adopted by Monroe County shall be maintained. [9J-5.012(3)(c)1,2,3 and 8; 9J-5.013(2)(c)1 and 6]

Element 5: Ports, Aviation and Related Facilities

GOAL 502 - All existing and future residents and guests of Monroe County shall be served with ports in a manner that maximizes safety, convenience, economic benefit, environmental compatibility and consistency with other elements of the comprehensive plan. [9J-5.009(3)(a)]

*Reading this goal and the following objectives and policies, there appears to be little doubt that the Monroe County Year 2010 Comprehensive Plan is intended to promote renovation of existing port and marine services and if possible, to assist in the expansion of new facilities. It also specifically calls for employee housing. Clearly the plan believes that the working waterfront is an essential ingredient for the success of the County, and that it must be protected.

Objective 502.1

Because of the Florida Key's unique nature as an archipelago, Monroe County shall promote the preservation and enhancement of the existing ports and port related activities.

Policy 502.1.1

Monroe County shall permit only port and port related land uses within the Safe Harbor/Peninsular port area of Stock Island. Within twelve months of the effective date of the Year 2010 Comprehensive Plan, Monroe County shall adopt Land Development Regulations and amend the Land Use District Maps to only permit those land uses including but not limited to commercial and industrial port dependent uses, industry, commercial fishing, marinas, and employee housing. [9J-5.009(3)(c)5]

Policy 502.1.2

Monroe County shall permit land uses supportive, complementary or otherwise port related nearby and adjacent to the Safe Harbor/Peninsular port area of Stock Island. Within twelve months of the effective date of the Year 2010 Comprehensive Plan, Monroe County shall adopt Land Development Regulations and amend the Land Use District Maps to only permit those uses, including but not limited to warehousing, industry, affordable housing, marine businesses, and restaurants. [9J-5.009(3)(c)5]

Policy 502.1.3

Monroe County shall encourage and facilitate the renovation and adaptation of existing port and related facilities to meet new maritime needs by seeking grants from available sources, assisting private business whenever possible, and adopting Land Development Regulations responsive to the unique requirements of a port within 24 months of the effective date of the Year 2010 Comprehensive Plan.

Policy 502.1.4

Monroe County shall facilitate port facilities that relieve traffic on U.S. 1 or serve as an alternative to U.S. 1 for delivering goods and services.

Policy 502.1.5

Monroe County shall support a proposal to amend the Coastal Barrier Resources System Map adopted by the Coastal Barrier Improvement Act of 1990, to delete the improved port property along the Safe Harbor entrance channel from the system unit, FL 57.

Objective 502.2

The expansion of existing or new port facilities shall be coordinated with the future land use, coastal management, and conservation elements. [9J-5.009(3)(b)1]

Policy 502.2.1

The development, expansion or renovation of ports and related facilities shall be consistent with the future land use, coastal management and conservation elements. [9J-5.009(3)(c)1]

Policy 502.2.3

Development activities to construct or expand port facilities shall be directed away from environmentally sensitive areas. [9J-5.009(3)(c)2 & 3]

Policy 502.3.1

Expansion of port facilities or proposed facilities shall be coordinated with the necessary expansions to the traffic circulation system. [9J-5.009(3)(c)4]

Objective 502.4

Monroe County shall coordinate all port or related facilities with the plans of the U.S. Army Corps of Engineers, Resource Planning and Management Plan prepared pursuant to Chapter 380, Florida Statutes and approved by the Governor and Cabinet, and the Florida Department of Transportation 5-Year Plan as adopted. [9J-5.009(3)(b)3]

Policy 502.4.2

Monroe County shall coordinate port related improvements with the Key West Port and Transit Authority (PATA) by designating a member of the staff of the Planning Department to act as a liaison with PATA.

Element 6: Housing

GOAL 601 - Monroe County shall adopt programs and policies to facilitate access by all current and future residents to adequate and affordable housing that is safe, decent, and structurally sound, and that meets the needs of the population based on type, tenure characteristics, unit size and individual preferences. [9J-5.010(3)(a)]

* The Housing Element contains objectives and policies acknowledging that affordable housing is a serious problem in Monroe County. There is only one goal in the rather short element. Element 5: Ports, Aviation and Related Facilities actually appears to

address the necessity of workforce housing as much—if not more—than the actual Housing Element does.

Objective 601.1

By January 4, 1998, Monroe County shall complete initial implementation of the following defined policies, including establishment of a structured monitoring program, to reduce by 50% the current estimated affordable housing need for households in the very low and low income classifications (HUD definitions) 2002. [9]-5.010(3)(b)1 and 3]

Policy 601.1.1

Within one year of the effective date of this Plan, Monroe County shall complete an assessment of affordable and special housing needs utilizing detailed housing data from the 1990 U.S. Census and an assessment of target areas and population segments representing priority affordable housing needs as a basis for establishing specific quantifiable near and long-term affordable housing programs. Results of the assessment shall be used to update the Year 2010 Comprehensive Plan's affordable housing policies.

Policy 601.1.2

By January 4, 1997, Monroe County shall adopt Land Development Regulations which establish a point system in conjunction with the permit allocation system for apportioning future development on an annual basis. The point system shall assign a positive point rating to affordable housing projects.

Policy 601.1.7

All affordable housing projects which receive development benefits from Monroe County, including but not limited to affordable housing points in the Permit Allocation System and donations of land, shall be required to maintain the project as affordable on a long-term basis pursuant to deed restrictions or other mechanisms specified in the Land Development Regulations, and administered by Monroe County or the Monroe County Housing Authority. For the purposes of developing such Land Development Regulations, the following guidelines shall apply:

- “Moderate Income” is the amount which represents one hundred-twenty percent (120%) of the median annual household income for Monroe County.
- “Low Income” is the amount which represents eighty percent (80%) of the median annual household income for Monroe County.
- “Very Low Income” is the amount which represents fifty percent (50%) of the median annual household income for Monroe County.
- “Cost-burdened” describes a household which pays a monthly rent or monthly mortgage payment, including taxes and insurance, that exceeds thirty percent (30%) of the median annual household income for Monroe County.

Policy 601.1.11

By the effective date of this Plan, Monroe County shall adopt Land Development Regulations which provide that twenty percent (20%) of residential building permits will be reserved for single or multi-family affordable housing. (See Technical Document, Section 7.2.1 and Future Land Use Policy 101.2.4.) Affordable housing eligible for this separate allocation must meet the criteria established in the Land Development Regulations. [9J-5.010(3)(c)5]

Element 12: Recreation and Open Space

GOAL 1201 - Monroe County shall provide a recreation and open space system to conserve valuable natural resources and to provide recreational opportunities adequate to serve the present and future population of Monroe County, including permanent residents and visitors. [9J-5.014(3)(a)]

*Included for potential tie-in of recreational boating and associated facets of the working waterfront.

Conclusion

A recurring theme of the Monroe County Year 2010 Comprehensive Plan is the intent for preservation, enhancement and development of the marine industry and the working waterfront in the Florida Keys. This plan clearly recognizes that policies are necessary to protect and to ensure the continued economic viability of the marine industry in Monroe Country, and details steps to help achieve this goal. The Future Land Use Element presents a vision of marine dependent communities and repeatedly discusses the need for a balance between residential and commercial development: one could easily conclude that the plan's drafters correctly anticipated the current demand for residential development in the Keys. This summary takes the approach that the spirit of these components runs throughout many elements contained in the Monroe County Year 2010 Comprehensive Plan.

A general familiarization with some of the key concepts addressing the working waterfront in the Keys that are contained in the Monroe County Year 2010 Comprehensive Plan should greatly assist researchers and stakeholders in creating the Monroe County Marine Management Strategic Plan.

Section 2: General Policies Regarding the Working Waterfront

Presented in this part of the document are a number of programs and tools that can be used to expand, protect, or enhance the working waterfront in Monroe County, with supplemental information on programs in other areas of the United States. Each program should be evaluated to determine eligibility requirements and application criteria. The regulatory tools discussed below can be used in a number of combinations to address the specific issues of Monroe County.

Programs

Urban Infill and Redevelopment Program – Provides financial assistance to local governments for the purpose of economic development, job creation, housing, transportation, crime prevention, and neighborhood revitalization. The properties must be designated as an urban infill and redevelopment area and must meet certain criteria. Once designated, the area can be prioritized to receive public investment in infrastructure, services, and compatible development.

Marina Siting Plan – Allows marinas to be exempt from the DRI review process under Section 380.06 (24)(k), Florida Statutes. The Plan must be adopted as a portion of a comprehensive plan and make use of the best management practices set forth by the Florida Department of Environmental Protection and Florida Fish and Wildlife Conservation Commission. The Marina Siting Plan can provide a framework for analyzing local conditions within the community to identify locations that can accommodate boating interests while protecting manatees, seagrass beds, and other marine resources. The Marina Siting Plan can improve predictability, time savings, and monitoring.³

Waterfronts Florida Partnership – Helps participating communities revitalize, renew, and promote interest in their waterfront district. Participating communities will have access to financial and technical assistance funded in part by the Florida Department of Environmental Protection, Florida Coastal Management Program, and the National Oceanic and Atmospheric Administration. Waterfront revitalization targets environmental resource protection, public access, retention of viable traditional waterfront economies, and hazard mitigation.⁴

Florida Communities Trust – A state land acquisition grant program that provides funding to local governments for the acquisition of community-based parks, open

³ <http://www.dca.state.fl.us/fdcp/dcp/marinasiting/index.cfm>

⁴ <http://www.dca.state.fl.us/fdcp/dcp/waterfronts/index.cfm>

space, and greenways that further outdoor recreation and natural resource protection needs identified in the Year 2010 Comprehensive Plan.⁵

Brownfield Redevelopment – Intended to encourage and direct the reuse of abandoned or idle commercial or industrial land where development is complicated by actual or perceived environmental contamination. The Florida Brownfields Program was created to assist local governments in the redevelopment of contaminated and abandoned or underutilized sites. Numerous state financial, regulatory, and technical incentives exist for the redevelopment and sustainable reuse of brownfield sites. Such examples include exemptions and lessening of state and local review requirements, zoning incentives to reduce review requirements for redevelopment, and waiver of transportation impact fees and permit fees.

Florida Boating Improvement Program – Administered by the Florida Fish and Wildlife Conservation Commission to provide funding for county projects designed to serve the needs of recreational boating on coastal and inland waters. Eligible uses of program funds include boat ramps and other public launching facilities, piers, docks, mooring facilities, economic development initiatives that promote boating, recreational channel marking, and other local boating related activities that enhance boating for recreational boaters.⁶

Regulatory Tools

Land Purchase – Waterfront Land can be purchased and operated by the county or contracted out to a third party to operate. Property owned by the government is not taxed, thereby lowering the operating costs of enterprises situated on high-value property.

Purchase of Development Rights – Allows development rights to be purchased in order to restrict the development potential on a property. For waterfront land, the value of development rights purchased would be the difference between the value of the land in a water-dependent use and its highest value as determined by the market. The property owner receives payment for the unrestricted value of the property and the land is permanently committed to water-dependent use.

Transfer of Development Rights – Often used in open space conservation effort but can be applied to marine properties by allowing development rights to be purchased from coastal land and redirected toward interior parcels.

⁵ <http://www.floridacommunitydevelopment.org/fct/index.cfm>

⁶ <http://myfwc.com/boating/grants/fbip.htm>

Land Trusts – Waterfront land can be purchased and held in perpetuity for water-dependent activities. This can provide tax relief to businesses while encouraging reinvestment in water-related infrastructure and facilities.

No Net Loss Policy – Create an inventory of working waterfronts and establish a “no net loss policy” which would prohibit the rezoning of property to residential uses, or require retention of public accessible waterfront uses.

Differential Taxation – Tax property at the value of its current use rather than its highest use value. This is the technique employed by many agricultural and forestry land programs throughout the country. If property taxes are a significant portion of a business’s fixed costs, this could be an effective tool for reducing the pressure to convert to another use.

Another version of this tax policy can reward business owners who preserve public access to the waterfront by allowing tax credits. This can ensure that reinvestment is allowed from redevelopment without losing public access to the waterfront. This would be an incentive based approach as opposed to a regulatory approach.

Tax Deferral – Property taxes for working waterfront parcels can be deferred in order to encourage property owners to maintain the current water-dependent use of their properties. In Florida, deferred taxes for working waterfront parcels are subject to accrue yearly interest. The interest rate is determined by the State, but is not to exceed 9.5%. This option has recently become available under the Waterfronts Florida Program, created by House Bill 955 (Effective January 1, 2006).

Water Dependent Zoning district – Allows the development of non-residential water-dependent uses, such as boat storage facilities, marine transportation, and commercial marinas. Residential uses are only permitted when they are supportive of other marine-dependent uses. Many configurations can be created to achieve the desired effect specified in the Year 2010 Comprehensive Plan.

Water Dependent Use Overlay Districts – used to identify areas where water dependent uses are primarily permitted. Overlay Districts can be used for the marine industry to preserve and promote marine dependent uses on properties that front a navigable waterway. These often do not include residential uses unless it can be demonstrated that the Residential use is supportive of other marine-dependent uses.

Mixed Use Districts – can provide opportunities to provide a dynamic blend of activities, mix certain marine-related uses with other uses in between districts, or make a transition from marine-dependent uses to water-related, water-enhanced, or non-water dependent uses. The mixed use district can be designed to create a mutually beneficial relationship, or include restrictions that ensure adjacent uses do not come in conflict with each other.

Design Standards – Establishing design standards can allow a community to preserve its existing community character through design by requiring that certain architectural elements be preserved during redevelopment activities or created during new

development. Design standards can be created through a public participation process and an examination of goals and objectives found in the Year 2010 Comprehensive Plan.

Historic Preservation - Historically and culturally significant structures along the waterfront can be designated as historic to preserve them in the face of growing redevelopment interests. Property tax relief is also provided under this option since historic properties may be accessed on the basis of its character or use.

Experience in Other Communities

Working Waterfronts in Other Florida Counties

Brevard County, Broward County, Jacksonville/Duval County, Martin County, Sarasota County, and the Treasure Coast Region have all taken action to preserve or create recreational and commercial-fishing working waterfronts, or public access to the water through boat ramps.⁷ The strategies used include:

- the adoption of local programs addressing the issue,
- providing additional funding to create a new boat ramp facility,
- performing a waterfront facility inventory and site analysis,
- hosting public workshops regarding commercial waterfront lands,
- purchase of development rights,
- purchase of waterfront property,
- purchase of boat ramp sites,
- Issuance of General Obligation bonds to finance the purchase of property, development rights, or boat ramps,
- incorporating working waterfronts as part of a Community Redevelopment Areas (CRAs), and
- adopting marine-dependent overlay districts and zones.

Working Waterfronts in Other Areas of the United States

Harpswell, Maine

Working waterfronts in Maine have faced similar challenges to Monroe County. In response, the Legislature of Maine has passed a resolution to allow for the assessment of commercial fishing activities based on use of property similar to farms, open space,

⁷ Working Waterfronts. Florida Senate Committee on Community Affairs. Interim Summary Report 2005-122 (2004).

and forest land.⁸ In addition, the purchase of development rights, preserving the “use” rights for water dependent activities, public harbor investment, and maritime use districts and zoning have all been contributing strategies to protect the working waterfront.⁹

The Town of Harpswell has adopted two types of zoning districts that specifically address the working waterfront. The Commercial Fishing District 1 (CF1) allows only functionally dependent water uses, and restricts all types of residential uses. The Commercial Fishing District 2 (CF2) allows for residential uses but limits commercial uses to those that are marine-related. The Town of Harpswell also prohibits anyone from restricting commercial fishing or related uses as a home occupation. This provides a clear intent to protect individual home-based fishing operations, such as those at Cundy’s Harbor.

Mystic Seaport, Connecticut

The Mystic Seaport was dedicated as a site of National Historical and Cultural Significance.¹⁰ Today, the area is home to the Museum of America and the Sea. The museum provides informal and formal education, historic preservation, research, maritime education, sailing and related nautical skills, and publications, art, and videos. In 1995, Mystic Seaport generated \$4.6 million in revenue from 383,000 visitors.¹¹

Norwalk, Connecticut

The City of Norwalk has included its working waterfront as part of a reinvestment plan to encourage redevelopment of places within the Mid-Harbor area. The recommendations of the plan included:

- protecting water-dependent uses and encourage additional uses that maximize enjoyment of the harbor,
- require sufficient setbacks to protect the public spirit of the harborwalk,
- utilize traffic calming devices to maintain a fully accessible environment,
- identify areas where uses are incompatible,
- link public improvements to private development actions,
- Concentrate scarce public funds on areas that will create synergy with existing investments,

⁸ Legislative Document No. 299, Amendment to the Constitution of Maine to allow the current use valuation of Waterfront Land used for or that supports commercial fishing activities. Available online at http://www.mainelegislature.org/legis/bills/ld_title.asp?ld=299

⁹ Island Institute (Not Dated) Maine’s Working Waterfront Coalition, Available online at <http://www.islandinstitute.org/programs.asp?section=workingwaterfront>

¹⁰ Sicard, Cheryl. (Not Dated) Explore Mystic Seaport, Available online at <http://www.fabuloustravel.com/usa/mystic/mysticseaport.html>

¹¹ Wylie, Jerry. (Not Dated) Heritage Tourism Classification Study, Available online at http://history.utah.gov/heritage_tourism_toolkit/general_information/mysticseaport.html

- revisit zoning regulations and design guidelines for waterfront areas to strengthen protection of public views and ensure water-dependent uses along the deep-water channel.¹²

Boston Harbor, Massachusetts

Designated Port Areas were created by the Massachusetts Office of Coastal Zone Management in 1978 to encourage and promote maritime industrial interests. Other communities in the Boston area have relied on public funding to finance capital improvement projects for water-dependent uses.¹³

Portland Harbor, Maine

Portland Harbor has adopted restrictive zoning in order to prevent the redevelopment of the working waterfront into condominiums and high-end restaurants. Now the area is in need of reinvestment, and will be pursuing mixed use developments that preserve water-dependent uses.¹⁴

Warren, Rhode Island

The Trust for Public Land (TPL), a nonprofit conservation organization, was able to utilize funds from the Rhode Island Department of Transportation to purchase a one acre marine harbor property for the purposes of providing public access, maintaining maritime heritage, and creating new economic opportunities. While the Town of Warren did not contribute funds for the land acquisition, they were instrumental in supporting TPL's efforts.¹⁵

¹² Chan Krieger & Associates et al. (August, 2004) Norwalk Mid-Harbor Planning Study Draft. Available online at <http://www.norwalkct.org/AgendaAction/MidHarborDev1/MidHarborHome.htm>

¹³ National Oceanic and Atmospheric Administration (NOAA).

¹⁴ Bell, Tom. Gritty Waterfront in Flux? Portland Press September, 17, 2005. Available online at <http://pressherald.mainetoday.com/news/local/050917wharf.shtml>

¹⁵ Trust for Public Land (Not Dated) Waterfront Preservation Project Nears Completion. Available online at http://www.tpl.org/tier3_cd.cfm?content_item_id=11374&folder_id=257