

# County of Monroe

## Planning & Environmental Resources

### Department

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## Board of County Commissioners

Mayor David Rice, District 4  
Mayor Pro Tem Sylvia J. Murphy, District 5  
Danny L. Kolhage, District 1  
George Neugent, District 2  
Heather Carruthers, District 3

*We strive to be caring, professional, and fair.*

**SENT VIA US CERTIFIED MAIL #70171000000104483927**

June 22, 2018

Ray Eubanks, Plan Processing Administrator  
Department of Economic Opportunity  
Community Planning and Development  
107 East Madison Street  
Caldwell Building, MSC 160  
Tallahassee, Florida 32399

## **Re: Monroe County Year 2030 Comprehensive Plan (Adopted CP Amendment 18-1ACSC)**

Dear Mr. Eubanks,

Pursuant to Chapter 163.3184(4), Florida Statutes the Monroe County Planning Department, acting within the jurisdiction of the Florida Keys Area of Critical State Concern (designated pursuant to Section 380.05, F.S.), hereby transmits one (1) hard copy and two (2) compact disks of the adopted amendment to the Monroe County Year 2030 Comprehensive Plan. This amendment is subject to State Coordinated Review Process, Section 163.3184(4), Florida Statutes, and the County requests the State Land Planning Agency to formally review the Comprehensive Plan amendment. This amendment was heard and adopted at a regular meeting of the Board of County Commissioners on May 16, 2018.

Copies of the amendment package and ORC response are also being provided to the South Florida Regional Council, Department of State Florida Bureau of Historic Preservation, Florida Fish and Wildlife Conservation Commission, Department of Agriculture and Consumer Services, Florida Department of Environmental Protection, Florida Department of Transportation, United States Navy (Naval Air Station Key West - Boca Chica), South Florida Water Management District, City of Key Colony Beach, Village of Islamorada, City of Layton, City of Marathon and City of Key West. Copies of the supporting data and analysis were previously included in the transmittal package.



## MEMORANDUM

### MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

*We strive to be caring, professional and fair*

**To:** Monroe County Board of County Commissioners

**Through:** Emily Schemper, AICP, CFM, Acting Senior Director of Planning and Environmental Resources

**From:** Cheryl Cioffari, AICP, Principal Planner

**Date:** April 13, 2018

**Subject:** An ordinance by the Monroe County Board of County Commissioners amending the Monroe County Year 2030 Comprehensive Plan to include the definition of Perimeter Canal in the Glossary; amending Policy 202.4.3 and creating new Policy 202.4.4 to allow maintenance dredging within areas vegetated with seagrass beds or characterized by hardbottom communities within the canals of Duck Key (MM 61) in order to restore navigational access; limited to previously dredged canals; not to exceed depths of greater than minus six feet MLW; provided there is no degradation of water quality or impact on surrounding benthic resources; requiring mitigation for impacts within the dredged area; provided the proposed dredging is in the public interest; as proposed by Demetrio Brid and Duck Key Community Benefit Inc. (File 2016-183)

**Meeting:** May 16, 2018

#### I. REQUEST

On October 28, 2016, the Planning and Environmental Resources Department received an application from Trepanier & Associates on behalf of Demetrio Brid and Duck Key Community Benefit, "the Applicant," (revised application received January 27, 2017) to amend the Monroe County Year 2030 Comprehensive Plan to allow maintenance dredging adjacent to Duck Key. In response to the staff report and staff discussion at the February 21, 2017 Development Review Committee (DRC) meeting, the Applicant has revised their proposed amendment language several times. The Applicant's current proposed language (received by Staff on August 11, 2017) requests amendments to include the definition of Perimeter Canal in the Glossary; and to amend Policy 202.4.3 and create a new Policy (202.4.4) to allow maintenance dredging within areas vegetated with seagrass beds or characterized by hardbottom communities within the canals of Duck Key (MM 61) in order to restore navigational access, provided certain conditions are met. The Applicant has also requested a corresponding Land Development Code (LDC) text amendment (File #2016-184). *The subject of this staff report is the proposed Comprehensive Plan text amendment.*

# Duck Key Canal Restoration

Plan 2015-2017



**BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY**

Meeting Date: January 20, 2016Department: Planning & Environmental ResourcesBulk Item: Yes  No Staff Contact Person/Phone #: Mayté Santamaria 289-2562

**AGENDA ITEM WORDING:** Discussion of text amendments to allow maintenance dredging in canals with seagrasses to maintain navigability.

**ITEM BACKGROUND:** At the October 21, 2015 BOCC meeting, there was a Sounding Board item to “speak to the County Commissioners in regards to Duck Key Property Owner’s Association concerns regarding decreasing water quality and accessibility in the renowned free flowing waterways that intersect the five islands that compromise Duck Key” by Sherry Popham. Mrs. Popham, representing Duck Key residents and Duck Key Property Owner’s Association, provided a hand-out to the BOCC regarding Duck Key Canal Restoration (attached), which identified 8 areas in Duck Key that have silted up to less than 5ft of depth at low tide. Mrs. Popham noted that no appreciable maintenance has been performed since construction of the canals 60+ years ago. Mrs. Popham described the canal system as free-flowing, teeming with sea life and seagrass, and with good water quality. Ms. Popham also described the creation of an attractive nuisance with the white sand deposition in the entrance canal (described in the hand-out as Area F), creating a white sandy beach within the canal. The movement of deposits of sand from storm events, water quality, property value impacts and navigability issues were mentioned. The Duck Key residents, represented by Ms. Popham, asked the BOCC to consider modifying the current County prohibitions (i.e. allow maintenance dredging where there are seagrasses and hardbottom communities) that prevent the restoration of the canals. Duck Key representatives have reviewed the various governmental agency requirements and noted that they believe the requirements of the state and federal agencies can be met but cannot move forward with the County’s prohibition on maintenance dredging in areas with seagrass beds or characterized by hardbottom communities.

The BOCC discussed the possibility of a specific Comprehensive Plan amendment to address canal maintenance and asked County staff to bring back potential options (not to open uncontrolled dredging or to allow the creation of new canals) for consideration. If the BOCC is considering the potential amendments of the Comprehensive Plan and Land Development Code, staff suggests that the Duck Key residents apply for text amendments to the Comprehensive Plan and Land Development Code.

Attached are excerpts of the current, adopted Monroe County Comprehensive Plan and Land Development Code related to maintenance dredging. Additionally, attached is a potential Comprehensive Plan and Land Development Code amendment option.

**PREVIOUS RELEVANT BOCC ACTION:**

On April 18, 2013, the BOCC reviewed a private application for a proposed text amendment to the Comprehensive Plan to establish sub-area policies applicable to a specific geographic area of submerged lands, create site-specific parameters for the re-dredging of privately-owned submerged lands with benthic resources to facilitate navigational access and to define the specific, limited circumstances and conditions which must be met to allow the re-dredging. The BOCC voted to not transmit the amendment.

On March 21, 2014, the BOCC reviewed draft amendments to the Comprehensive Plan for the 2030 Comprehensive Plan update project and directed staff to develop a text amendment to allow maintenance dredging the mouth of a canal to restore navigational access.





**MONROE COUNTY, FLORIDA  
PLANNING COMMISSION RESOLUTION NO. P31-17**

A RESOLUTION BY THE MONROE COUNTY PLANNING COMMISSION RECOMMENDING APPROVAL OF AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE MONROE COUNTY COMPREHENSIVE PLAN TO INCLUDE THE DEFINITION OF PERIMETER CANAL IN THE GLOSSARY; AMENDING POLICY 202.4.3 AND CREATING NEW POLICY 202.4.4 TO ALLOW MAINTENANCE DREDGING WITHIN AREAS VEGETATED WITH SEAGRASS BEDS OR CHARACTERIZED BY HARDBOTTOM COMMUNITIES WITHIN THE CANALS OF DUCK KEY (MM 61) IN ORDER TO RESTORE NAVIGATIONAL ACCESS; LIMITED TO PREVIOUSLY DREDGED CANALS; NOT TO EXCEED DEPTHS OF GREATER THAN MINUS SIX FEET MLW; PROVIDED THERE IS NO DEGRADATION OF WATER QUALITY OR IMPACT ON SURROUNDING BENTHIC RESOURCES; REQUIRING MITIGATION FOR IMPACTS WITHIN THE DREDGED AREA; PROVIDED THE PROPOSED DREDGING IS IN THE PUBLIC INTEREST; AS PROPOSED BY DEMETRIO BRID AND DUCK KEY COMMUNITY BENEFIT INC.; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR INCLUSION IN THE MONROE COUNTY COMPREHENSIVE PLAN; PROVIDING FOR AN EFFECTIVE DATE.

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**WHEREAS**, on October 28, 2016, the Planning and Environmental Resources Department received an application from Trepanier & Associates on behalf of Demetrio Brid and Duck Key Community Benefit, “the Applicant,” (revised application received January 27, 2017) to amend the Monroe County Year 2030 Comprehensive Plan to allow maintenance dredging adjacent to Duck Key; and

**WHEREAS**, on August 11, 2017, the Applicant submitted revised language for the proposed Comprehensive Plan text amendment, which includes requests to add the definition of Perimeter Canal in the Glossary; and to amend Policy 202.4.3 and create a new Policy (202.4.4) to allow maintenance dredging within areas vegetated with seagrass beds or characterized by hardbottom communities within the canals of Duck Key (mm 61) in order to restore navigational access, limited to previously dredged canals systems; not to exceed depths of greater than minus



**MONROE COUNTY, FLORIDA  
BOARD OF COUNTY COMMISSIONERS  
RESOLUTION NO. 362 - 2017**

A RESOLUTION BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS TRANSMITTING TO THE STATE LAND PLANNING AGENCY AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE MONROE COUNTY YEAR 2030 COMPREHENSIVE PLAN TO INCLUDE THE DEFINITION OF PERIMETER CANAL IN THE GLOSSARY; AMENDING POLICY 202.4.3 AND CREATING NEW POLICY 202.4.4 TO ALLOW MAINTENANCE DREDGING WITHIN AREAS VEGETATED WITH SEAGRASS BEDS OR CHARACTERIZED BY HARDBOTTOM COMMUNITIES WITHIN THE CANALS OF DUCK KEY (MM 61) IN ORDER TO RESTORE NAVIGATIONAL ACCESS; LIMITED TO PREVIOUSLY DREDGED CANALS; NOT TO EXCEED DEPTHS OF GREATER THAN MINUS SIX FEET MLW; PROVIDED THERE IS NO DEGRADATION OF WATER QUALITY OR IMPACT ON SURROUNDING BENTHIC RESOURCES; REQUIRING MITIGATION FOR IMPACTS WITHIN THE DREDGED AREA; PROVIDED THE PROPOSED DREDGING IS IN THE PUBLIC INTEREST; AS PROPOSED BY DEMETRIO BRID AND DUCK KEY COMMUNITY BENEFIT INC.; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR INCLUSION IN THE MONROE COUNTY COMPREHENSIVE PLAN; PROVIDING FOR AN EFFECTIVE DATE.

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**WHEREAS**, the Monroe County Board of County Commissioners conducted a public hearing for the purpose of considering the transmittal pursuant to the State Coordinated Review Process in Sec. 163.3184(4), F.S., to the State Land Planning Agency for objections, recommendations and comments, and to the other Reviewing Agencies as defined in Sec.





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6 **MONROE COUNTY, FLORIDA**  
7 **MONROE COUNTY BOARD OF COUNTY COMMISSIONERS**  
8 **ORDINANCE NO. 010-2018**  
9

10 **AN ORDINANCE BY THE MONROE COUNTY BOARD OF**  
11 **COUNTY COMMISSIONERS AMENDING THE MONROE**  
12 **COUNTY YEAR 2030 COMPREHENSIVE PLAN TO INCLUDE**  
13 **THE DEFINITION OF PERIMETER CANAL IN THE GLOSSARY;**  
14 **AMENDING POLICY 202.4.3 AND CREATING NEW POLICY**  
15 **202.4.4 TO ALLOW MAINTENANCE DREDGING WITHIN**  
16 **AREAS VEGETATED WITH SEAGRASS BEDS OR**  
17 **CHARACTERIZED BY HARDBOTTOM COMMUNITIES**  
18 **WITHIN THE CANALS OF DUCK KEY (MM 61) IN ORDER TO**  
19 **RESTORE NAVIGATIONAL ACCESS; LIMITED TO**  
20 **PREVIOUSLY DREDGED CANALS; NOT TO EXCEED DEPTHS**  
21 **OF GREATER THAN MINUS SIX FEET MLW; PROVIDED**  
22 **THERE IS NO DEGRADATION OF WATER QUALITY OR**  
23 **IMPACT ON SURROUNDING BENTHIC RESOURCES;**  
24 **REQUIRING MITIGATION FOR IMPACTS WITHIN THE**  
25 **DREDGED AREA; PROVIDED THE PROPOSED DREDGING IS**  
26 **IN THE PUBLIC INTEREST; AS PROPOSED BY DEMETRIO**  
27 **BRID AND DUCK KEY COMMUNITY BENEFIT INC.;**  
28 **PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL**  
29 **OF CONFLICTING PROVISIONS; PROVIDING FOR**  
30 **TRANSMITTAL TO THE STATE LAND PLANNING AGENCY**  
31 **AND THE SECRETARY OF STATE; PROVIDING FOR**  
32 **INCLUSION IN THE MONROE COUNTY COMPREHENSIVE**  
33 **PLAN; PROVIDING FOR AN EFFECTIVE DATE.**

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34  
35  
36 **WHEREAS**, on March 21, 2014, the BOCC reviewed draft amendments to the  
37 Comprehensive Plan for the 2030 Comprehensive Plan update project and directed staff to  
38 develop a text amendment to allow maintenance dredging at the mouth of a canal to restore  
39 navigational access; and

40  
41 **WHEREAS**, on July 23, 2014, the BOCC reviewed draft amendments to the  
42 Comprehensive Plan for the 2030 Comprehensive Plan update project, including text  
43 amendments to allow maintenance dredging at the mouth (entrance) of a canal; and at that time,  
44 the BOCC recommended maintaining the proposed amendment in the 2030 Comprehensive Plan  
45 update draft; and  
46

1           **WHEREAS**, on October 7, 2014, the BOCC reviewed draft amendments to the  
2 Comprehensive Plan for the 2030 Comprehensive Plan update project, including text  
3 amendments to allow maintenance dredging at the mouth of a canal; and the BOCC directed  
4 deletion of the proposed amendments relating to maintenance dredging at the mouth (entrance)  
5 of a canal; and  
6

7           **WHEREAS**, on October 21, 2015, at a regularly scheduled BOCC meeting, there was a  
8 Sounding Board item to discuss concerns regarding decreasing water quality and accessibility in  
9 the canals of Duck Key; and  
10

11           **WHEREAS**, on January 20, 2016, at a regularly scheduled BOCC meeting, as a follow-  
12 up to the October 21, 2015 Sounding Board discussion, staff provided the BOCC with a potential  
13 Comprehensive Plan and Land Development Code amendment option based on the October 21,  
14 2015 BOCC discussion and direction, and also recommended that the Duck Key residents submit  
15 an application for such text amendments; and  
16

17           **WHEREAS**, at the January 20, 2016, BOCC meeting, the BOCC gave the following  
18 direction:

- 19           • the Duck Key property owners should apply for the applicable text amendments;
- 20           • the BOCC would be willing to consider such amendments if limited to previously  
21 dredged manmade canals and possibly previously dredged manmade perimeter  
22 canals, but not for open water, basins, or channels;
- 23           • the BOCC was favorable towards changing “storm depositions” to “sedimentary  
24 deposition,” “natural sedimentary depositions,” or similar language;
- 25           • the BOCC was favorable towards limiting eligible canals to those adjacent to  
26 developed properties or those needed to maintain contiguous transportation from  
27 developed properties to open water, or similar language; and,
- 28           • the BOCC was not in favor of allowing maintenance dredging in areas with benthic  
29 resources in channels, even if at the mouth of a canal – areas where both edges are  
30 under water; and  
31

32           **WHEREAS**, on October 28, 2016, the Planning and Environmental Resources  
33 Department received an application from Trepanier & Associates on behalf of Demetrio Brid and  
34 Duck Key Community Benefit, “the Applicant,” (revised application received January 27, 2017)  
35 to amend the Monroe County Year 2030 Comprehensive Plan to allow maintenance dredging  
36 adjacent to Duck Key; and  
37

38           **WHEREAS**, on February 21, 2017, the Monroe County Development Review  
39 Committee (DRC) reviewed the proposed amendments and provided comments regarding  
40 consistency with prior BOCC direction, and internal consistency with the newly adopted and  
41 effective 2030 Comprehensive Plan; and  
42

43           **WHEREAS**, following the February 21, 2017 DRC meeting, the Applicant submitted  
44 revised amendment language to address the comments provided in the DRC staff report and  
45 during the meeting; and  
46



1           **WHEREAS**, the proposed Comprehensive Plan amendment was scheduled for a public  
2 hearing at the June 28, 2017, Planning Commission meeting, and granted a continuance to the  
3 August 30, 2017 Planning Commission meeting, per a request by the Applicant; and  
4

5           **WHEREAS**, on August 11, 2017, the Applicant submitted revised language for the  
6 proposed Comprehensive Plan text amendment, which includes requests to add the definition of  
7 Perimeter Canal in the Glossary; and to amend Policy 202.4.3 and create a new Policy (202.4.4)  
8 to allow maintenance dredging within areas vegetated with seagrass beds or characterized by  
9 hardbottom communities within the canals of Duck Key (mm 61) in order to restore navigational  
10 access, limited to previously dredged canals systems; not to exceed depths of greater than minus  
11 six feet MLW; provided there is no degradation of water quality or impact on surrounding  
12 benthic resources; requiring mitigation for impacts within the dredged area; provided the  
13 proposed dredging is in the public interest; and  
14

15           **WHEREAS**, the Monroe County Planning Commission held a public hearing on the 30<sup>th</sup>  
16 day of August, 2017, for review and recommendation on the proposed Comprehensive Plan text  
17 amendment; and  
18

19           **WHEREAS**, based upon the information and documentation submitted, the Planning  
20 Commission made the following Findings of Fact and Conclusions of Law:  
21

- 22           1. The proposed amendment is consistent with the Goals, Objectives and Policies of the  
23 Monroe County Year 2030 Comprehensive Plan; and
- 24           2. The proposed amendment is consistent with the Principles for Guiding Development  
25 for the Florida Keys Area of Critical State Concern, Sec. 380.0552(7), F.S.; and
- 26           3. The proposed amendment is consistent with Part II of Chapter 163, Florida Statute.  
27

28           **WHEREAS**, the Monroe County Planning Commission adopted a Resolution  
29 recommending approval of the proposed amendment; and  
30

31           **WHEREAS**, at a regular meeting held on the 13<sup>th</sup> day of December 2017, the Monroe  
32 County Board of County Commissioners held a public hearing to consider the transmittal of the  
33 proposed text amendment, considered the staff report and provided for public comment and  
34 public participation in accordance with the requirements of state law and the procedures adopted  
35 for public participation in the planning process; and  
36

37           **WHEREAS**, at the December 13, 2017, public hearing, the BOCC adopted Resolution  
38 362-2017, authorizing transmittal of the proposed text amendment to the State Land Planning  
39 Agency; and  
40

41           **WHEREAS**, the State Land Planning Agency reviewed the amendment and issued an  
42 Objections, Recommendations and Comments (ORC) report, received by the County on  
43 February 27, 2018; and

1           **WHEREAS**, the ORC report did not contain any objections, recommendations or  
2 comments; and

3  
4           **WHEREAS**, the County has 180 days from the date of receipt of the ORC to adopt the  
5 proposed amendment, adopt the amendment with changes or not adopt the amendment; and

6  
7           **WHEREAS**, at a regularly scheduled meeting on the 16<sup>th</sup> day of May, 2018, the BOCC  
8 held a public hearing to consider adoption of the proposed Comprehensive Plan text amendment;

9  
10 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**  
11 **COMMISSIONERS OF MONROE COUNTY, FLORIDA:**

12  
13 **Section 1.** The text of the Monroe County Year 2030 Comprehensive Plan is hereby  
14 amended as follows (Deletions are shown stricken through; additions are shown  
15 underlined):

16  
17 **Glossary:**

18 \* \* \*

19 Perimeter Canal means a manmade trench, the bottom of which is normally covered by water  
20 with one of the upper edges of its sides normally above water and the other edge below water.

21  
22 **Policy 202.4.3**

23 No maintenance dredging shall be permitted within areas vegetated with seagrass beds or  
24 characterized by hardbottom communities, except for maintenance in public navigation channels;  
25 in canal restoration projects pursuant to Policy 202.4.7; or in the manmade artificial canals of  
26 Duck Key (MM 61), pursuant to Florida Department of Environmental Protection and U.S.  
27 Army Corps of Engineers permits, to restore navigational access obstructed by natural  
28 depositions, subject to the requirements in Policy 202.4.4.

29  
30 **Policy 202.4.4**

31 Within the manmade artificial canals of Duck Key (MM 61), maintenance dredging within areas  
32 vegetated with seagrass beds or characterized by hardbottom communities may be permitted to  
33 restore navigational access, provided that:

- 34       1. Shoaling or natural deposition has obstructed or reduced reasonable access to open water;  
35       2. The maintenance dredging cannot be used to dredge natural barriers (areas that have not  
36       been previously dredged) separating canals from adjacent wetlands and/or other surface  
37       waters;  
38       3. The maintenance dredging shall not exceed depths greater than minus six (-6) feet mean  
39       low water, or to the depths of refusal (rock), whichever is more restrictive (e.g. the  
40       shallowest depth shall control);



- 1     4. The maintenance dredging methodology shall not cause degradation of water quality or  
2     secondary and/or cumulative impacts to surrounding benthic resources;
- 3     5. Turbidity controls shall be used to prevent reduction of light availability to seagrasses  
4     and increased sedimentation in adjacent surface waters and benthic resources;
- 5     6. The quantity of mitigation for seagrass/hardbottom community resource impacts shall  
6     meet the requirements specified by the State of Florida's Uniform Mitigation Assessment  
7     Method (UMAM); and
- 8     7. The proposed maintenance dredging is in the "public interest" (for the purposes of this  
9     policy, "public interest" means demonstrable environmental, social, and economic  
10    benefits which would accrue to the public at large as a result of a proposed action). The  
11    applicant shall be responsible for providing justification that the proposed maintenance  
12    dredging is in the "public interest."

13  
14    **Policy 202.4.54**

15    In order to prevent degradation of bottom vegetation, maintenance dredging in artificial  
16    waterways shall not exceed depths greater than minus six (-6) feet mean low water. This  
17    policy does not apply to the entrance channels into Key West Harbor and Safe Harbor.

18  
19    **Policy 202.4.65**

20    All dredged spoil resulting from maintenance dredging shall be placed on permitted upland  
21    sites where drainage can be contained on-site.

22  
23    **Policy 202.4.76**

24    Due to the physical structure, depth, and orientation of existing canals, water quality  
25    problems have been caused which cannot be improved with wastewater treatment and  
26    stormwater management practices alone. To implement the 2013 Monroe County Canal  
27    Management Master Plan and improve water quality in artificial canals, the County is  
28    developing canal restoration projects to improve tidal flushing, increase dissolved oxygen  
29    concentrations as identified in the surface water quality criteria in Ch. 62-302.530, F.A.C.,  
30    and remove accumulated nutrients and decomposing organic material.

31  
32    Canal restoration projects, developed to determine the effectiveness of water quality  
33    strategies of the Florida Keys National Marine Sanctuary Water Quality Protection Program,  
34    which are performed or funded by public entities (County, State, or Federal) for organic  
35    material removal and backfilled to a depth of 6ft - 8ft, or an alternative depth as determined  
36    by best available scientific data and authorized by the state and federal permitting agencies,  
37    from artificial canals characterized as having poor or fair water quality within the 2013  
38    Monroe County Canal Management Master Plan are exempt from the provisions in Policy  
39    202.8.4.

40  
41    Two (2) demonstration pilot canal restoration projects will remove decomposing organic  
42    material from previously dredged artificial canals (down to the bedrock) without backfilling.  
43    To evaluate the effectiveness of this removal strategy, without any backfilling, and to  
44    determine if water quality can be restored and maintained, water quality monitoring of these

1 two (2) organic removal pilot projects shall be conducted at a two (2) year point of time and a  
2 ten (10) year point of time after completion of the pilot projects. After the two (2) year and  
3 ten (10) year monitoring, the County shall request a water quality report from the Water  
4 Quality Protection Program (WQPP) to determine the pilot projects' effectiveness in  
5 improving dissolved oxygen concentrations, as identified in the surface water quality criteria  
6 in Ch. 62-302.530, F.A.C., in the two (2) organic removal pilot projects canals. If the WQPP  
7 does not provide the water quality report, the County shall fund and conduct the water quality  
8 report. If the water quality report for the two (2) year monitoring indicates improved water  
9 quality, additional canal restoration projects, beyond the two (2) pilot projects, to perform  
10 organic material removal to depths greater than minus six (-6) feet mean low water without  
11 backfilling to 6ft-8ft may proceed.  
12

13 Upon determination of the two (2) pilot projects' effectiveness and an amendment to this  
14 Policy, the exemption to the provisions in Policy 202.8.4 may be expanded beyond public  
15 entities (County, State, or Federal) for organic material removal of previously dredged  
16 artificial canals characterized as having poor or fair water quality within the 2013 Monroe  
17 County Canal Management Master Plan. The organic material removal shall be allowed to  
18 depths greater than minus six (-6) feet mean low water, if permitted by Florida Department of  
19 Environmental Protection or the Water Management District and the Army Corp of  
20 Engineers.  
21

22 For this policy, hydraulic (vacuum) dredging shall be considered the preferred means of  
23 removal of the organic material. If hydraulic dredging is not proposed to accomplish the  
24 organic material removal, a public hearing before the Board of County Commissioners  
25 (BOCC) shall be required prior to issuance of a county permit. The BOCC shall hold a public  
26 hearing on the request to use an alternative dredging methodology and shall consider the  
27 cost, rationale, compatibility, complications and public comments. The public hearing shall  
28 provide the applicant the opportunity to address the issues regarding the proposed canal  
29 restoration project, including but not limited to, sediment size, logistical/accessibility  
30 limitations, obstructions and/or equipment constraints. The BOCC may grant, grant with  
31 conditions or deny the request to use an alternative dredging methodology.  
32

33 **Policy 202.4.87**

34 No "after-the-fact" permits shall be issued that violate Monroe County dredge and fill  
35 regulations. All illegal structures and fill shall be removed and damages mitigated.  
36

37 **Section 2.** **Severability.** If any section, subsection, sentence, clause, item, change, or  
38 provision of this ordinance is held invalid, the remainder of this ordinance shall  
39 not be affected by such validity.  
40

41 **Section 3.** **Repeal of Inconsistent Provisions.** All ordinances or parts of ordinances in  
42 conflict with this ordinance are hereby repealed to the extent of said conflict.  
43

1 **Section 4. Transmittal.** This ordinance shall be transmitted by the Director of Planning to  
2 the State Land Planning Agency pursuant to Chapter 163 and 380, Florida  
3 Statutes.  
4


5 **Section 5. Filing and Effective Date.** This ordinance shall be filed in the Office of the  
6 Secretary of the State of Florida but shall not become effective until a notice is  
7 issued by the State Land Planning Agency or Administration Commission finding  
8 the amendment in compliance with Chapter 163, Florida Statutes and after any  
9 applicable challenges have been resolved.  
10

11 **Section 6. Inclusion in the Comprehensive Plan.** The text amendment shall be  
12 incorporated in the Monroe County Comprehensive Plan. The numbering of the  
13 foregoing amendment may be renumbered to conform to the numbering in the  
14 Monroe County Comprehensive Plan.  
15

16 **PASSED AND ADOPTED** by the Board of County Commissioners of Monroe County,  
17 Florida, at a regular meeting held on the 16th day of May, 2018.  
18

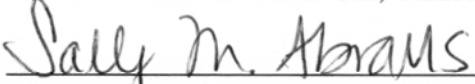
19 Mayor David Rice Yes  
20 Mayor *Pro Tem* Sylvia Murphy Yes  
21 Commissioner Danny L. Kolhage Yes  
22 Commissioner George Neugent Yes  
23 Commissioner Heather Carruthers Yes  
24

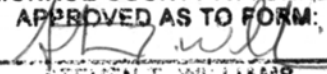
25 BOARD OF COUNTY COMMISSIONERS  
26 OF MONROE COUNTY, FLORIDA

27 BY   
28 Mayor David Rice



29 ATTEST: KEVIN MADOK, CLERK

30   
31 DEPUTY CLERK  
32

33 **MONROE COUNTY ATTORNEY**  
34 **APPROVED AS TO FORM:**  
35   
36 STEVEN T. WILLIAMS  
ASSISTANT COUNTY ATTORNEY  
Date 4/17/18

FILED FOR RECORD  
2018 MAY 30 AM 9:58  
CLERK CIR. CT.  
MONROE COUNTY, FL





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STATE OF  
FLORIDA  
MONROE COUNTY

Before the undersigned authority personally known to me, the undersigned authority who on oath says that he is Publisher of the newspaper published in Key West, attached copy of advertisement, bearing the following title:

Monroe County  
Public Meeting

was published in said newspaper in

April 28, 2018

Affiant further says that the Key West, in said Monroe County heretofore been continuously published, and has been entered as second, in said Monroe County, Florida, the first publication of the attached advertisement, and that he has neither paid nor received any discount, rebate, commission or other consideration for publication in the

Sworn and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

Notary Public:

*[Signature]*

Expires: 09-14-2018

Personally Known \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_

**MONROE COUNTY BOARD OF  
COUNTY COMMISSIONERS  
NOTICE OF PUBLIC  
MEETING AND NOTICE  
OF PUBLIC HEARING  
NOTICE OF AMENDMENT  
TO THE MONROE COUNTY  
COMPREHENSIVE PLAN  
NOTICE OF AMENDMENT TO  
THE MONROE COUNTY  
LAND DEVELOPMENT CODE**

May 16, 2018

NOTICE IS HEREBY GIVEN that on Wednesday, May 16, 2018, the Monroe County Board of County Commissioners will hold the following Public Hearing at the Harvey Government Center, 1200 Truman Ave, Key West, Monroe County, Florida to review and receive public comment for the following items:

3:00 PM (or as soon thereafter as may be heard):

**MARINA INN CONDOMINIUM, 111, 121, 211, 311, 321, 411 & 421 BEACH ROAD, OCEAN REEF.**

A RESOLUTION APPROVING A REQUEST BY JOEL REED ON BEHALF OF MARINA INN LAND, LLC FOR A WAIVER TO THE COUNTY'S INCLUSIONARY HOUSING REQUIREMENTS, PURSUANT TO SECTION 139-1(B)(3) OF THE MONROE COUNTY LAND DEVELOPMENT CODE, ON PROPERTY COMMONLY KNOWN AS MARINA INN CONDOMINIUM LOCATED AT 111, 121, 211, 311, 321, 411 AND 421 BEACH ROAD IN OCEAN REEF AND LEGALLY DESCRIBED AS UNITS 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529 AND 530 IN MARINA INN CONDOMINIUM, ACCORDING TO THE DECLARATION OF CONDOMINIUM THEREOF AS RECORDED IN OFFICIAL RECORDS BOOK 728, PAGES 383 THROUGH 458; AS AMENDED IN OFFICIAL RECORDS BOOK 759 AT PAGE 95, AS FURTHER AMENDED IN OFFICIAL RECORDS BOOK 1457 AT PAGE 1612 AND AMENDMENT RECORDED IN OFFICIAL RECORDS BOOK 2678, PAGE 801, AS AFFECTED BY NOTICE OF QUIT CLAIM ASSIGNMENT OF DECLARANT'S RIGHTS RECORDED IN OFFICIAL RECORDS BOOK 2668, PAGE 400, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, AND EXHIBITS THEREOF AND THE CONDOMINIUM PLANS AS RECORDED IN CONDOMINIUM GRAPHICS BOOK 2, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA; TOGETHER WITH THE UNDIVIDED INTEREST IN COMMON PROPERTY DESCRIBED IN SAID DECLARATION OF CONDOMINIUM TO BE AN APPURTENANCE TO THE ABOVE DESCRIBED UNITS; CONSISTING OF 31 PARCELS HAVING REAL ESTATE NUMBERS FROM 00569471-000200 TO 00569471-005000.  
(FILE 2016-030)

**AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS** AMENDING THE MONROE COUNTY COMPREHENSIVE PLAN TO INCLUDE THE DEFINITION OF PERIMETER CANAL IN THE GLOSSARY; AMENDING POLICY 202.4.3 AND CREATING NEW POLICY 202.4.4 TO ALLOW MAINTENANCE DREDGING WITHIN AREAS VEGETATED WITH SEAGRASS BEDS OR CHARACTERIZED BY HARDBOTTOM COMMUNITIES WITHIN THE CANALS OF DUCK KEY (MM 61) IN ORDER TO RESTORE NAVIGATIONAL ACCESS; LIMITED TO PREVIOUSLY DREDGED CANALS; NOT TO EXCEED DEPTHS OF GREATER THAN MINUS SIX FEET MLW; PROVIDED THERE IS NO DEGRADATION OF WATER QUALITY OR IMPACT ON SURROUNDING BENTHIC RESOURCES; REQUIRING MITIGATION FOR IMPACTS WITHIN THE DREDGED AREA; PROVIDED THE PROPOSED DREDGING IS IN THE PUBLIC INTEREST; AS PROPOSED BY DEMETRIO BRID AND DUCK KEY COMMUNITY BENEFIT INC.; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR INCLUSION IN THE MONROE COUNTY COMPREHENSIVE PLAN; PROVIDING FOR AN EFFECTIVE DATE.  
(2016-183)

**AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS** AMENDING MONROE COUNTY LAND DEVELOPMENT CODE SECTION 101-1 - DEFINITIONS, TO INCLUDE THE DEFINITION OF PERIMETER CANAL; AMENDING SECTION 118-10 - ENVIRONMENTAL DESIGN FOR SPECIFIC HABITAT TYPES, TO ALLOW MAINTENANCE DREDGING WITHIN AREAS VEGETATED WITH SEAGRASS BEDS OR CHARACTERIZED BY HARDBOTTOM COMMUNITIES WITHIN THE CANALS OF DUCK KEY (MM61) IN ORDER TO RESTORE NAVIGATIONAL ACCESS; LIMITED TO PREVIOUSLY DREDGED CANALS; NOT TO EXCEED DEPTHS OF GREATER THAN MINUS SIX FEET MLW; PROVIDED THERE IS NO DEGRADATION OF WATER QUALITY OR IMPACT ON SURROUNDING BENTHIC RESOURCES; REQUIRING MITIGATION FOR IMPACTS WITHIN THE DREDGED AREA; PROVIDED THE PROPOSED DREDGING IS IN THE PUBLIC INTEREST; AS PROPOSED BY DEMETRIO BRID AND DUCK KEY COMMUNITY BENEFIT INC.; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR INCLUSION IN THE MONROE COUNTY LAND DEVELOPMENT CODE; PROVIDING FOR AN EFFECTIVE DATE.  
(2016-184)

Copies of the above are available at the Monroe County Planning Department offices in Marathon and Key Largo during normal business hours and online at: [www.monroecounty-fl.gov](http://www.monroecounty-fl.gov)

Pursuant to Section 286.0105 Florida Statutes, if a person decides to appeal any decision of the Board of County Commissioners, with respect to any matter considered at the meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to insure a verbatim record of the proceedings is made, which record includes the testimony & evidence upon which the appeal is to be based.

**ADA ASSISTANCE:** If you are a person with a disability who needs special accommodations in order to participate in this proceeding, please contact the County Administrator's Office, by phoning (305) 292-4441, between the hours of 8:30 a.m. - 5:00 p.m., no later than five (5) calendar days prior to the scheduled meeting; if you are hearing or voice impaired, call "711".



## Kevin Madok, CPA

Clerk of the Circuit Court & Comptroller – Monroe County, Florida

June 21, 2018

Department of State  
Administrative Code & Register  
500 S. Bronough Street  
Tallahassee, FL. 32399-0250

To Whom It May Concern,

Attached is an electronic copy of **Ordinance No. 010-2018** amending the Monroe County Year 2030 Comprehensive Plan to include the definition of Perimeter Canal in the Glossary; amending Policy 202.4.3 and creating new Policy 202.4.4 to allow maintenance dredging within areas vegetated with sea grass beds or characterized by hard-bottom communities within the canals of Duck Key (MM 61) in order to restore navigational access; limited to previously dredged canals; not to exceed depths of greater than minus six feet MLW; provided there is no degradation of water quality or impact on surrounding benthic resources; requiring mitigation for impacts within the dredged area; provided the proposed dredging is in the public interest; as proposed by Demetrio Brid and Duck Key Community Benefit Inc.; providing for severability; providing for repeal of conflicting provisions; providing for transmittal to the State Land Planning Agency and the Secretary of State; providing for inclusion in the Monroe County Comprehensive Plan; providing for an effective date.

This Ordinance was adopted by the Monroe County Board of County Commissioners at a regular meeting, held in formal session, on May 16, 2018. Should you have any questions, please feel free to contact me at (305) 292-3550.

Respectfully Submitted,

Kevin Madok, CPA,  
Clerk of the Circuit Court & Comptroller &  
ex-officio to the Monroe County  
Board of County Commissioners

*by: Sally M. Abrams, D.C.*

cc: County Administrator  
County Attorney  
Planning & Environmental Resources  
BOCC  
File

KEY WEST  
500 Whitehead Street  
Key West, Florida 33040  
305-294-4641

MARATHON  
3117 Overseas Highway  
Marathon, Florida 33050  
305-289-6027

PLANTATION KEY  
88820 Overseas Highway  
Plantation Key, Florida 33070  
305-852-7145

PK/ROTH BUILDING  
50 High Point Road  
Plantation Key, Florida 33070  
305-852-7145

46 163.3184(1)(c), F.S., for review and comment on a proposed amendment to the Monroe County  
47 Year 2030 Comprehensive Plan as described above; and

48  
49 **WHEREAS**, the Monroe County Planning Commission and the Monroe County Board  
50 of County Commissioners support the requested text amendment;

51  
52 **NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY**  
53 **COMMISSIONERS OF MONROE COUNTY, FLORIDA:**

54  
55 **Section 1.** The Board of County Commissioners does hereby adopt the recommendation of  
56 the Planning Commission to transmit the draft ordinance, attached as Exhibit A,  
57 for adoption of the proposed text amendment.

58  
59 **Section 2.** The Board of County Commissioners does hereby transmit the proposed  
60 amendment to the State Land Planning Agency for review and comment in  
61 accordance with the State Coordinated Review process pursuant to Section  
62 163.3184(4), Florida Statutes.

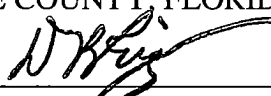
63  
64 **Section 3.** The Monroe County staff is given authority to prepare and submit the required  
65 transmittal letter and supporting documents for the proposed amendment in  
66 accordance with the requirements of Section 163.3184(4), Florida Statutes.

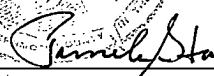
67  
68 **Section 4.** The Clerk of the Board is hereby directed to forward a certified copy of this  
69 resolution to the Director of Planning.


70  
71 **PASSED AND ADOPTED** by the Board of County Commissioners of Monroe County,  
72 Florida, at a regular meeting held on the 13<sup>th</sup> day of December, 2017.

73  
74 Mayor David Rice Yes  
75 Mayor *Pro Tem* Sylvia Murphy Yes  
76 Commissioner Danny L. Kolhage Yes  
77 Commissioner George Neugent Yes  
78 Commissioner Heather Carruthers Yes

79  
80 BOARD OF COUNTY COMMISSIONERS  
81 OF MONROE COUNTY, FLORIDA

82  
83 BY   
84 Mayor David Rice

85  
86  
87  
88  
89  
90  
91  
FILED FOR RECORD  
2017 DEC 28 AM 10:20  
CLERK CIR. CL.  
MONROE COUNTY, FL  
(SEAL)  
ATTEST KEVIN MADOK, CLERK  
  
DEPUTY CLERK

MONROE COUNTY ATTORNEY  
APPROVED AS TO FORM:  
  
STEVEN T. WILLIAMS  
ASSISTANT COUNTY ATTORNEY  
Date 11/28/17





1  
2  
3  
4  
5  
6 **MONROE COUNTY, FLORIDA**  
7 **MONROE COUNTY BOARD OF COUNTY COMMISSIONERS**  
8 **ORDINANCE NO. -201**  
9

10 **AN ORDINANCE BY THE MONROE COUNTY BOARD OF**  
11 **COUNTY COMMISSIONERS AMENDING THE MONROE**  
12 **COUNTY YEAR 2030 COMPREHENSIVE PLAN TO INCLUDE**  
13 **THE DEFINITION OF PERIMETER CANAL IN THE GLOSSARY;**  
14 **AMENDING POLICY 202.4.3 AND CREATING NEW POLICY**  
15 **202.4.4 TO ALLOW MAINTENANCE DREDGING WITHIN**  
16 **AREAS VEGETATED WITH SEAGRASS BEDS OR**  
17 **CHARACTERIZED BY HARDBOTTOM COMMUNITIES**  
18 **WITHIN THE CANALS OF DUCK KEY (MM 61) IN ORDER TO**  
19 **RESTORE NAVIGATIONAL ACCESS; LIMITED TO**  
20 **PREVIOUSLY DREDGED CANALS; NOT TO EXCEED DEPTHS**  
21 **OF GREATER THAN MINUS SIX FEET MLW; PROVIDED**  
22 **THERE IS NO DEGRADATION OF WATER QUALITY OR**  
23 **IMPACT ON SURROUNDING BENTHIC RESOURCES;**  
24 **REQUIRING MITIGATION FOR IMPACTS WITHIN THE**  
25 **DREDGED AREA; PROVIDED THE PROPOSED DREDGING IS**  
26 **IN THE PUBLIC INTEREST; AS PROPOSED BY DEMETRIO**  
27 **BRID AND DUCK KEY COMMUNITY BENEFIT INC.;**  
28 **PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL**  
29 **OF CONFLICTING PROVISIONS; PROVIDING FOR**  
30 **TRANSMITTAL TO THE STATE LAND PLANNING AGENCY**  
31 **AND THE SECRETARY OF STATE; PROVIDING FOR**  
32 **INCLUSION IN THE MONROE COUNTY COMPREHENSIVE**  
33 **PLAN; PROVIDING FOR AN EFFECTIVE DATE.**

34  
35  
36 **WHEREAS,** on March 21, 2014, the BOCC reviewed draft amendments to the  
37 Comprehensive Plan for the 2030 Comprehensive Plan update project and directed staff to  
38 develop a text amendment to allow maintenance dredging at the mouth of a canal to restore  
39 navigational access; and  
40

41 **WHEREAS,** on July 23, 2014, the BOCC reviewed draft amendments to the  
42 Comprehensive Plan for the 2030 Comprehensive Plan update project, including text  
43 amendments to allow maintenance dredging at the mouth (entrance) of a canal; and at that time,  
44 the BOCC recommended maintaining the proposed amendment in the 2030 Comprehensive Plan  
45 update draft; and  
46

1           **WHEREAS**, on October 7, 2014, the BOCC reviewed draft amendments to the  
2 Comprehensive Plan for the 2030 Comprehensive Plan update project, including text  
3 amendments to allow maintenance dredging at the mouth of a canal; and the BOCC directed  
4 deletion of the proposed amendments relating to maintenance dredging at the mouth (entrance)  
5 of a canal; and  
6

7           **WHEREAS**, on October 21, 2015, at a regularly scheduled BOCC meeting, there was a  
8 Sounding Board item to discuss concerns regarding decreasing water quality and accessibility in  
9 the canals of Duck Key; and  
10

11           **WHEREAS**, on January 20, 2016, at a regularly scheduled BOCC meeting, as a follow-  
12 up to the October 21, 2015 Sounding Board discussion, staff provided the BOCC with a potential  
13 Comprehensive Plan and Land Development Code amendment option based on the October 21,  
14 2015 BOCC discussion and direction, and also recommended that the Duck Key residents submit  
15 an application for such text amendments; and  
16

17           **WHEREAS**, at the January 20, 2016, BOCC meeting, the BOCC gave the following  
18 direction:

- 19           • the Duck Key property owners should apply for the applicable text amendments;
- 20           • the BOCC would be willing to consider such amendments if limited to previously  
21 dredged manmade canals and possibly previously dredged manmade perimeter  
22 canals, but not for open water, basins, or channels;
- 23           • the BOCC was favorable towards changing “storm depositions” to “sedimentary  
24 deposition,” “natural sedimentary depositions,” or similar language;
- 25           • the BOCC was favorable towards limiting eligible canals to those adjacent to  
26 developed properties or those needed to maintain contiguous transportation from  
27 developed properties to open water, or similar language; and,
- 28           • the BOCC was not in favor of allowing maintenance dredging in areas with benthic  
29 resources in channels, even if at the mouth of a canal – areas where both edges are  
30 under water; and  
31

32           **WHEREAS**, on October 28, 2016, the Planning and Environmental Resources  
33 Department received an application from Trepanier & Associates on behalf of Demetrio Brid and  
34 Duck Key Community Benefit, “the Applicant,” (revised application received January 27, 2017)  
35 to amend the Monroe County Year 2030 Comprehensive Plan to allow maintenance dredging  
36 adjacent to Duck Key; and  
37

38           **WHEREAS**, on February 21, 2017, the Monroe County Development Review  
39 Committee (DRC) reviewed the proposed amendments and provided comments regarding  
40 consistency with prior BOCC direction, and internal consistency with the newly adopted and  
41 effective 2030 Comprehensive Plan; and  
42

43           **WHEREAS**, following the February 21, 2017 DRC meeting, the Applicant submitted  
44 revised amendment language to address the comments provided in the DRC staff report and  
45 during the meeting; and  
46

1           **WHEREAS**, the proposed Comprehensive Plan amendment was scheduled for a public  
2 hearing at the June 28, 2017, Planning Commission meeting, and granted a continuance to the  
3 August 30, 2017 Planning Commission meeting, per a request by the Applicant; and  
4

5           **WHEREAS**, on August 11, 2017, the Applicant submitted revised language for the  
6 proposed Comprehensive Plan text amendment, which includes requests to add the definition of  
7 Perimeter Canal in the Glossary; and to amend Policy 202.4.3 and create a new Policy (202.4.4)  
8 to allow maintenance dredging within areas vegetated with seagrass beds or characterized by  
9 hardbottom communities within the canals of Duck Key (mm 61) in order to restore navigational  
10 access, limited to previously dredged canals systems; not to exceed depths of greater than minus  
11 six feet MLW; provided there is no degradation of water quality or impact on surrounding  
12 benthic resources; requiring mitigation for impacts within the dredged area; provided the  
13 proposed dredging is in the public interest; and  
14

15           **WHEREAS**, the Monroe County Planning Commission held a public hearing on the 30<sup>th</sup>  
16 day of August, 2017, for review and recommendation on the proposed Comprehensive Plan text  
17 amendment; and  
18

19           **WHEREAS**, based upon the information and documentation submitted, the Planning  
20 Commission made the following Findings of Fact and Conclusions of Law:  
21

- 22           1. The proposed amendment is consistent with the Goals, Objectives and Policies of the  
23 Monroe County Year 2030 Comprehensive Plan; and
- 24           2. The proposed amendment is consistent with the Principles for Guiding Development  
25 for the Florida Keys Area of Critical State Concern, Sec. 380.0552(7), F.S.; and
- 26           3. The proposed amendment is consistent with Part II of Chapter 163, Florida Statute.  
27

28           **WHEREAS**, the Monroe County Planning Commission adopted a Resolution  
29 recommending approval of the proposed amendment; and  
30

31           **WHEREAS**, at a regular meeting held on the 13<sup>th</sup> day of December 2017, the Monroe  
32 County Board of County Commissioners held a public hearing to consider the transmittal of the  
33 proposed text amendment, considered the staff report and provided for public comment and  
34 public participation in accordance with the requirements of state law and the procedures adopted  
35 for public participation in the planning process; and  
36

37           **WHEREAS**, at the December 13, 2017, public hearing, the BOCC adopted Resolution  
38 \_\_\_\_-201\_, \_\_\_\_\_ transmittal of the proposed text amendment to the State Land  
39 Planning Agency; and  
40

41           **WHEREAS**, the State Land Planning Agency reviewed the amendment and issued an  
42 Objections, Recommendations and Comments (ORC) report, received by the County on  
43 \_\_\_\_\_; and



1  
2           **WHEREAS**, the ORC report \_\_\_\_\_; and

3  
4           **WHEREAS**, the County has 180 days from the date of receipt of the ORC to adopt the  
5 proposed amendment, adopt the amendment with changes or not adopt the amendment; and

6  
7           **WHEREAS**, at a regularly scheduled meeting on the \_\_\_<sup>th</sup> day of \_\_\_\_\_, 201\_, the  
8 BOCC held a public hearing to consider adoption of the proposed Comprehensive Plan text  
9 amendment;

10  
11 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**  
12 **COMMISSIONERS OF MONROE COUNTY, FLORIDA:**

13  
14 **Section 1.**     The text of the Monroe County Year 2030 Comprehensive Plan is hereby  
15 amended as follows:

16  
17 **Glossary:**

18 \* \* \*

19 *Perimeter Canal* means a manmade trench, the bottom of which is normally covered by water  
20 with one of the upper edges of its sides normally above water and the other edge below water.

21  
22 **Policy 202.4.3**

23 No maintenance dredging shall be permitted within areas vegetated with seagrass beds or  
24 characterized by hardbottom communities, except for maintenance in public navigation channels;  
25 in canal restoration projects pursuant to Policy 202.4.6; or in the manmade artificial canals of  
26 Duck Key (MM 61), pursuant to Florida Department of Environmental Protection and U.S.  
27 Army Corps of Engineers permits, to restore navigational access obstructed by natural  
28 depositions, subject to the requirements in Policy 202.4.4.

29  
30 **Policy 202.4.4**

31 Within the manmade artificial canals of Duck Key (MM 61), maintenance dredging within areas  
32 vegetated with seagrass beds or characterized by hardbottom communities may be permitted to  
33 restore navigational access, provided that:

- 34     1. Shoaling or natural deposition has obstructed or reduced reasonable access to open water;  
35     2. The maintenance dredging cannot be used to dredge natural barriers (areas that have not  
36     been previously dredged) separating canals from adjacent wetlands and/or other surface  
37     waters;  
38     3. The maintenance dredging shall not exceed depths greater than minus six (-6) feet mean  
39     low water, or to the depths of refusal (rock), whichever is more restrictive (e.g. the  
40     shallowest depth shall control);

- 1 4. The maintenance dredging methodology shall not cause degradation of water quality or  
2 secondary and/or cumulative impacts to surrounding benthic resources;
- 3 5. Turbidity controls shall be used to prevent reduction of light availability to seagrasses  
4 and increased sedimentation in adjacent surface waters and benthic resources;
- 5 6. The quantity of mitigation for seagrass/hardbottom community resource impacts shall  
6 meet the requirements specified by the State of Florida's Uniform Mitigation Assessment  
7 Method (UMAM); and
- 8 7. The proposed maintenance dredging is in the "public interest" (for the purposes of this  
9 policy, "public interest" means demonstrable environmental, social, and economic  
10 benefits which would accrue to the public at large as a result of a proposed action). The  
11 applicant shall be responsible for providing justification that the proposed maintenance  
12 dredging is in the "public interest."  
13

14 **Policy 202.4.5**

15 In order to prevent degradation of bottom vegetation, maintenance dredging in artificial  
16 waterways shall not exceed depths greater than minus six (-6) feet mean low water. This  
17 policy does not apply to the entrance channels into Key West Harbor and Safe Harbor.  
18

19 **Policy 202.4.6**

20 All dredged spoil resulting from maintenance dredging shall be placed on permitted upland  
21 sites where drainage can be contained on-site.  
22

23 **Policy 202.4.7**

24 Due to the physical structure, depth, and orientation of existing canals, water quality  
25 problems have been caused which cannot be improved with wastewater treatment and  
26 stormwater management practices alone. To implement the 2013 Monroe County Canal  
27 Management Master Plan and improve water quality in artificial canals, the County is  
28 developing canal restoration projects to improve tidal flushing, increase dissolved oxygen  
29 concentrations as identified in the surface water quality criteria in Ch. 62-302.530, F.A.C.,  
30 and remove accumulated nutrients and decomposing organic material.  
31

32 Canal restoration projects, developed to determine the effectiveness of water quality  
33 strategies of the Florida Keys National Marine Sanctuary Water Quality Protection Program,  
34 which are performed or funded by public entities (County, State, or Federal) for organic  
35 material removal and backfilled to a depth of 6ft - 8ft, or an alternative depth as determined  
36 by best available scientific data and authorized by the state and federal permitting agencies,  
37 from artificial canals characterized as having poor or fair water quality within the 2013  
38 Monroe County Canal Management Master Plan are exempt from the provisions in Policy  
39 202.8.4.  
40

41 Two (2) demonstration pilot canal restoration projects will remove decomposing organic  
42 material from previously dredged artificial canals (down to the bedrock) without backfilling.  
43 To evaluate the effectiveness of this removal strategy, without any backfilling, and to  
44 determine if water quality can be restored and maintained, water quality monitoring of these

1 two (2) organic removal pilot projects shall be conducted at a two (2) year point of time and a  
2 ten (10) year point of time after completion of the pilot projects. After the two (2) year and  
3 ten (10) year monitoring, the County shall request a water quality report from the Water  
4 Quality Protection Program (WQPP) to determine the pilot projects' effectiveness in  
5 improving dissolved oxygen concentrations, as identified in the surface water quality criteria  
6 in Ch. 62-302.530, F.A.C., in the two (2) organic removal pilot projects canals. If the WQPP  
7 does not provide the water quality report, the County shall fund and conduct the water quality  
8 report. If the water quality report for the two (2) year monitoring indicates improved water  
9 quality, additional canal restoration projects, beyond the two (2) pilot projects, to perform  
10 organic material removal to depths greater than minus six (-6) feet mean low water without  
11 backfilling to 6ft-8ft may proceed.

12  
13 Upon determination of the two (2) pilot projects' effectiveness and an amendment to this  
14 Policy, the exemption to the provisions in Policy 202.8.4 may be expanded beyond public  
15 entities (County, State, or Federal) for organic material removal of previously dredged  
16 artificial canals characterized as having poor or fair water quality within the 2013 Monroe  
17 County Canal Management Master Plan. The organic material removal shall be allowed to  
18 depths greater than minus six (-6) feet mean low water, if permitted by Florida Department of  
19 Environmental Protection or the Water Management District and the Army Corp of  
20 Engineers.

21  
22 For this policy, hydraulic (vacuum) dredging shall be considered the preferred means of  
23 removal of the organic material. If hydraulic dredging is not proposed to accomplish the  
24 organic material removal, a public hearing before the Board of County Commissioners  
25 (BOCC) shall be required prior to issuance of a county permit. The BOCC shall hold a public  
26 hearing on the request to use an alternative dredging methodology and shall consider the  
27 cost, rationale, compatibility, complications and public comments. The public hearing shall  
28 provide the applicant the opportunity to address the issues regarding the proposed canal  
29 restoration project, including but not limited to, sediment size, logistical/accessibility  
30 limitations, obstructions and/or equipment constraints. The BOCC may grant, grant with  
31 conditions or deny the request to use an alternative dredging methodology.

32  
33 **Policy 202.4.8**

34 No "after-the-fact" permits shall be issued that violate Monroe County dredge and fill  
35 regulations. All illegal structures and fill shall be removed and damages mitigated.

36  
37 **Section 2.** **Severability.** If any section, subsection, sentence, clause, item, change, or  
38 provision of this ordinance is held invalid, the remainder of this ordinance shall  
39 not be affected by such validity.

40  
41 **Section 3.** **Repeal of Inconsistent Provisions.** All ordinances or parts of ordinances in  
42 conflict with this ordinance are hereby repealed to the extent of said conflict.  
43

1 **Section 4. Transmittal.** This ordinance shall be transmitted by the Director of Planning to  
2 the State Land Planning Agency pursuant to Chapter 163 and 380, Florida  
3 Statutes.  
4

5 **Section 5. Filing and Effective Date.** This ordinance shall be filed in the Office of the  
6 Secretary of the State of Florida but shall not become effective until a notice is  
7 issued by the State Land Planning Agency or Administration Commission finding  
8 the amendment in compliance with Chapter 163, Florida Statutes and after any  
9 applicable challenges have been resolved.  
10

11 **Section 6. Inclusion in the Comprehensive Plan.** The text amendment shall be  
12 incorporated in the Monroe County Comprehensive Plan. The numbering of the  
13 foregoing amendment may be renumbered to conform to the numbering in the  
14 Monroe County Comprehensive Plan.  
15

16 **PASSED AND ADOPTED** by the Board of County Commissioners of Monroe County,  
17 Florida, at a regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 201\_.

18  
19 Mayor David Rice \_\_\_\_\_  
20 Mayor *Pro Tem* Sylvia Murphy \_\_\_\_\_  
21 Commissioner Danny L. Kolhage \_\_\_\_\_  
22 Commissioner George Neugent \_\_\_\_\_  
23 Commissioner Heather Carruthers \_\_\_\_\_  
24

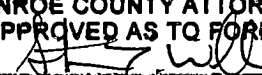
25 BOARD OF COUNTY COMMISSIONERS  
26 OF MONROE COUNTY, FLORIDA  
27

28 BY \_\_\_\_\_  
29 Mayor David Rice  
30

31 (SEAL)

32 ATTEST: KEVIN MADOK, CLERK  
33

34 \_\_\_\_\_  
35 DEPUTY CLERK  
36

MONROE COUNTY ATTORNEY  
APPROVED AS TO FORM:  
  
\_\_\_\_\_  
STEVEN T. WILLIAMS  
ASSISTANT COUNTY ATTORNEY  
Date 12/18/17



1 six feet MLW; provided there is no degradation of water quality or impact on surrounding  
2 benthic resources; requiring mitigation for impacts within the dredged area; provided the  
3 proposed dredging is in the public interest; and  
4

5 **WHEREAS**, on March 21, 2014, the BOCC reviewed draft amendments to the  
6 Comprehensive Plan for the 2030 Comprehensive Plan update project and directed staff to  
7 develop a text amendment to allow maintenance dredging at the mouth of a canal to restore  
8 navigational access; and  
9

10 **WHEREAS**, on July 23, 2014, the BOCC reviewed draft amendments to the  
11 Comprehensive Plan for the 2030 Comprehensive Plan update project, including text  
12 amendments to allow maintenance dredging at the mouth (entrance) of a canal; and at that time,  
13 the BOCC recommended maintaining the proposed amendment in the 2030 Comprehensive Plan  
14 update draft; and  
15

16 **WHEREAS**, on October 7, 2014, the BOCC reviewed draft amendments to the  
17 Comprehensive Plan for the 2030 Comprehensive Plan update project, including text  
18 amendments to allow maintenance dredging at the mouth of a canal; and the BOCC directed  
19 deletion of the proposed amendments relating to maintenance dredging at the mouth (entrance)  
20 of a canal; and  
21

22 **WHEREAS**, on October 21, 2015, at a regularly scheduled BOCC meeting, there was a  
23 Sounding Board item to discuss concerns regarding decreasing water quality and accessibility in  
24 the canals of Duck Key; and  
25

26 **WHEREAS**, on January 20, 2016, at a regularly scheduled BOCC meeting, as a follow-  
27 up to the October 21, 2015 Sounding Board discussion, staff provided the BOCC with a potential  
28 Comprehensive Plan and Land Development Code amendment option based on the October 21,  
29 2015 BOCC discussion and direction, and also recommended that the Duck Key residents submit  
30 an application for such text amendments; and  
31

32  
33 **WHEREAS**, at the January 20, 2016, BOCC meeting, the BOCC gave the following  
34 direction:

- 35 • the Duck Key property owners should apply for the applicable text amendments;
- 36 • the BOCC would be willing to consider such amendments if limited to previously  
37 dredged manmade canals and possibly previously dredged manmade perimeter  
38 canals, but not for open water, basins, or channels;
- 39 • the BOCC was favorable towards changing “storm depositions” to “sedimentary  
40 deposition,” “natural sedimentary depositions,” or similar language;
- 41 • the BOCC was favorable towards limiting eligible canals to those adjacent to  
42 developed properties or those needed to maintain contiguous transportation from  
43 developed properties to open water, or similar language; and,
- 44 • the BOCC was not in favor of allowing maintenance dredging in areas with benthic  
45 resources in channels, even if at the mouth of a canal – areas where both edges are  
46 under water; and



1  
2       **WHEREAS**, on February 21, 2017, the Monroe County Development Review  
3 Committee (DRC) reviewed the proposed amendments and provided comments regarding  
4 consistency with prior BOCC direction, and internal consistency with the newly adopted and  
5 effective 2030 Comprehensive Plan; and  
6

7       **WHEREAS**, following the February 21, 2017 DRC meeting, the Applicant submitted  
8 revised amendment language to address the comments provided in the DRC staff report and  
9 during the meeting; and  
10

11       **WHEREAS**, the proposed Comprehensive Plan amendment was scheduled for a public  
12 hearing at the June 28, 2017, Planning Commission meeting, and granted a continuance to the  
13 August 30, 2017 Planning Commission meeting, per a request by the Applicant; and  
14

15       **WHEREAS**, on August 11, 2017, the Applicant submitted revised language for the  
16 proposed Comprehensive Plan text amendment; and  
17

18       **WHEREAS**, the Monroe County Planning Commission held a public hearing on the 30<sup>th</sup>  
19 day of August, 2017, for review and recommendation on the proposed Comprehensive Plan text  
20 amendment; and  
21

22       **WHEREAS**, the Planning Commission was presented with the following documents and  
23 other information relevant to the request, which by reference is hereby incorporated as part of the  
24 record of said hearing:  
25

- 26       1. Staff report prepared by Emily Schemper, Comprehensive Planning Manager, dated  
27       June 15, 2017;
- 28       2. Supplemental staff report prepared by Emily Schemper, Comprehensive Planning  
29       Manager, dated August 18, 2017;
- 30       3. Sworn testimony of Monroe County Planning & Environmental Resources  
31       Department staff; and
- 32       4. Advice and counsel of Steve Williams, Assistant County Attorney, and John Wolfe,  
33       Planning Commission Counsel; and  
34

35       **WHEREAS**, based upon the information and documentation submitted, the Planning  
36 Commission makes the following Findings of Fact and Conclusions of Law:  
37

- 38       1. The proposed amendment is consistent with the Goals, Objectives and Policies of the  
39       Monroe County Year 2030 Comprehensive Plan; and
- 40       2. The proposed amendment is consistent with the Principles for Guiding Development  
41       for the Florida Keys Area of Critical State Concern, Sec. 380.0552(7), F.S.; and
- 42       3. The proposed amendment is consistent with Part II of Chapter 163, Florida Statute.

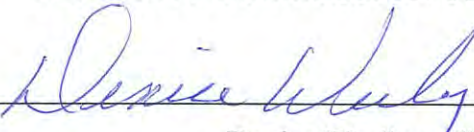
43       **NOW THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION**  
44 **OF MONROE COUNTY, FLORIDA**, the Monroe County Planning Commission recommends  
45 approval by the Board of County Commissioners of an amendment to the Monroe County Year

1 2030 Comprehensive Plan, as submitted by the Applicant on August 11, 2017, and including the  
2 changes recommended by Staff in the Supplemental Staff Report dated August 18, 2017, and  
3 with the added change of to the wording of "natural sedimentary depositions" to "natural  
4 depositions."  
5

6 **PASSED AND ADOPTED BY THE PLANNING COMMISSION** of Monroe County,  
7 Florida, at a regular meeting held on the 30<sup>th</sup> day of August, 2017.  
8

9	Denise Werling, Chair	<u>Yes</u>
10	William Wiatt, Vice-Chair	<u>Yes</u>
11	Beth Ramsey-Vickrey, Commissioner	<u>Yes</u>
12	Teri Johnston, Commissioner	<u>Yes</u>
13	Ron Miller, Commissioner	<u>Yes</u>

14  
15 **PLANNING COMMISSION OF MONROE COUNTY, FLORIDA**

16  
17 By   
18 Denise Werling, Chair

19  
20 Signed this 15<sup>th</sup> day of November, 2017  
21

22  
23  
24 Monroe County Planning Commission Attorney  
25 Approved As To Form

26  
27   
28 Date: 11/15/17

**FILED WITH THE**

**NOV 15 2017**

**AGENCY CLERK**



On July 23, 2014, the BOCC reviewed draft amendments to the Comprehensive Plan for the 2030 Comprehensive Plan update project, including text amendments to allow maintenance dredging the mouth (entrance) of a canal. The BOCC recommended maintaining the proposed amendment in the 2030 Comprehensive Plan update draft.

On October 7, 2014, the BOCC reviewed draft amendments to the Comprehensive Plan for the 2030 Comprehensive Plan update project, including text amendments to allow maintenance dredging the mouth of a canal. The BOCC directed deletion of the proposed amendments relating to maintenance dredging the mouth (entrance) of a canal.

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**CONTRACT/AGREEMENT CHANGES:** n/a

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**STAFF RECOMMENDATIONS:** n/a

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**TOTAL COST:** n/a **INDIRECT COST:** \_\_\_\_\_ **BUDGETED:** Yes \_\_\_ No \_\_\_

**DIFFERENTIAL OF LOCAL PREFERENCE:** \_\_\_\_\_

**COST TO COUNTY:** \_\_\_\_\_ **SOURCE OF FUNDS:** \_\_\_\_\_

**REVENUE PRODUCING:** Yes \_\_\_ No x **AMOUNT PER MONTH** \_\_\_\_\_ **Year** \_\_\_\_\_

**APPROVED BY:** County Atty JP 115 OMB/Purchasing \_\_\_ Risk Management \_\_\_

**DOCUMENTATION:** Included x Not Required \_\_\_\_\_

**DISPOSITION:** \_\_\_\_\_ **AGENDA ITEM #** \_\_\_\_\_



## Existing Adopted Dredging Policies and Code

### Comprehensive Plan

#### **Objective 202.8**

Monroe County shall maintain Land Development Regulations which implement county policies preventing the continued loss of benthic resources, improving water quality and controlling pollutant discharges into surface waters from dredge and fill activities.

#### **Policy 202.8.1**

Monroe County shall support state and federal policies and regulations concerning the permitting of dredge and fill activity, except in those instances where more stringent regulations adopted by Monroe County shall be maintained.

#### **Policy 202.8.2**

No new dredging shall be permitted in Monroe County

#### **Policy 202.8.3**

*No maintenance dredging shall be permitted within areas vegetated with seagrass beds or characterized by hardbottom communities except for maintenance in public navigation channels.*

#### **Policy 202.8.4**

In order to facilitate establishment and prevent degradation of bottom vegetation, maintenance dredging in artificial waterways shall not exceed depths greater than minus six (-6) feet mean low water. This policy does not apply to the entrance channels into Key West Harbor and Safe Harbor.

### Land Development Code

#### **Sec. 118-10. - Environmental design for specific habitat types.**

In addition to the general criteria set forth in this chapter, specific criteria shall apply to individual habitats as outlined in this section.

(4) Mangroves, wetlands, and submerged lands.

All structures developed, used or occupied on land classified as mangroves, wetlands or submerged lands (all types and all levels of quality) shall be designed, located and constructed such that:

- a. Generally. Only docks and docking facilities, boat ramps, walkways, water access walkways, water observation platforms, boat shelters, nonenclosed gazebos, riprap, seawalls, bulkheads, and utility pilings shall be permitted on or over mangroves, wetlands, and submerged lands, subject to the specific restrictions of this subsection. These restrictions shall not apply to disturbed wetlands that have been lawfully converted into uplands through filling. Trimming and/or removal of mangroves shall meet Florida Department of Environmental Protection requirements.
- b. Protection of circulation patterns. Shoreline structures shall be designed to protect tidal flushing and circulation patterns.
- c. **Dredging.** The following restrictions shall apply to dredging activities:
  1. No new dredging shall be allowed in the county except as specified for boat ramps in section 118-12(1) (shoreline setback, boat ramps).



2. *No maintenance dredging shall be permitted within areas vegetated with seagrass beds or characterized by hard bottom communities except for maintenance dredging in public navigation channels.*

3. In order to facilitate establishment and prevent degradation of bottom vegetation, maintenance dredging in artificial waterways shall not exceed depths greater than six feet at mean low water (MLW). This restriction does not apply to the entrance channels into Key West Harbor and Safe Harbor.

4. All dredged spoil materials shall be placed on permitted upland sites designed and located to prevent runoff of spoil material into wetlands or surface waters.

5. All dredge activities require approvals by the Florida Department of Environmental Protection and the U.S. Army Corps of Engineers prior to issuance of a county permit.

6. Exemptions:

a. Pursuant to Policy 202.8.6, canal restoration projects developed to determine the effectiveness of water quality strategies of the Florida Keys National Marine Sanctuary Water Quality Protection Program that meet the following criteria are exempt from the restrictions in [subsection] (4)c.2:

i. Projects are limited to previously dredged artificial canals characterized as having poor or fair water quality within the 2013 Monroe County Canal Management Master Plan;

ii. Projects are performed or funded by public entities (county, state, or federal) for organic material removal; and

iii. Projects are backfilled to a depth of six to eight feet, or an alternative depth as determined by best available scientific data and authorized by the state and federal permitting agencies; and

iv. Hydraulic (vacuum) dredging shall be considered the preferred means of removal of the organic material. If hydraulic dredging is not proposed to accomplish the organic material removal, a public hearing before the board of county commissioners (BOCC) shall be required prior to issuance of a county permit.

b. Pursuant to Policy 202.8.6, two demonstration pilot canal restoration projects to remove decomposing organic material from previously dredged artificial canals (down to the bedrock) without backfilling will be performed and evaluated for effectiveness. Water quality monitoring of these two organic removal pilot projects shall be conducted at a two-year point of time and a ten-year point of time after completion of the pilot projects, and a water quality report shall be reviewed to determine the effectiveness in improving dissolved oxygen concentrations, as identified in the surface water quality criteria in Chapter 62-302.530, F.A.C., in the two organic removal pilot projects canals.

d. Placement of fill. No fill shall be permitted in any mangroves, wetlands, or submerged lands except:

1. As specifically allowed by this section or by section 118-12(k) and (l) shoreline setbacks, bulkheads, seawalls, riprap and boat ramps);

2. To fill a manmade, excavated water body such as a canal, boat ramp, boat slip, boat basin or swimming pool if the county biologist determines that such



filling will not have a significant adverse impact on marine or wetland communities;

3. As needed for shoreline stabilization or beach renourishment projects with a valid public purpose that furthers the goals of the Monroe County Comprehensive Plan, as determined by the county biologist;

4. For bridges extending over salt marsh and/or buttonwood association wetlands that are required to provide automobile or pedestrian access to dwelling units located on upland areas within the same property for which there is no alternate means of access. Such bridges shall be elevated on pilings so that the natural movement of water, including volume, rate and direction of flow shall not be disrupted or altered; or

5. As approved for Disturbed Salt Marsh and Buttonwood Association Wetlands with appropriate mitigation as defined by the wetland regulations of subsection (d)(6) of this section.

All such projects shall require approval by the Florida Department of Environmental Protection and the U.S. Army Corps of Engineers prior to issuance of a county building permit.

e. After-the-fact exclusion. No after-the-fact permits shall be issued that violate the county dredge and filling regulations. All fill shall be removed and all damages mitigated.

**Section 101-1:**

*Dredging* means excavation below water level or in wetlands.

*Maintenance* means that action taken to restore or preserve the functional intent of any facility or system.

**Florida Department of Environmental Rule 18-21.003, F.A.C., provides definitions for private and public channel, as follows:**

**Rule 18-21.003 Definitions.**

When used in these rules, the following definitions shall apply unless the context clearly indicates otherwise:

(46) **“Private channel”** means a channel that is dredged or maintained by private entities to provide access to or from such locations as private residences, marinas, yacht clubs, vessel repair facilities, or revenue-generating facilities.

(50) **“Public channel”** means a channel that is constructed or maintained by a public entity such as a federal or state agency, local government, or inland navigation district listed in Chapter 374, F.S., or that is part of a public navigation project, public water management project, or a deepwater port listed in Section 403.021(9)(b), F.S.

(52) **“Public navigation project”** means an activity primarily for the purpose of navigation which is authorized and funded by the United States Congress or by port authorities as defined by Section 315.02(2), F.S.

**Section 373.403, F.S. Definitions.—**

When appearing in this part or in any rule, regulation, or order adopted pursuant thereto, the following terms mean:

- (8) “Maintenance” or “repairs” means remedial work of a nature as may affect the safety of any dam, impoundment, reservoir, or appurtenant work or works, but excludes routine custodial maintenance.
- (13) “Dredging” means excavation, by any means, in surface waters or wetlands, as delineated in s. 373.421(1). It also means the excavation, or creation, of a water body which is, or is to be, connected to surface waters or wetlands, as delineated in s. 373.421(1), directly or via an excavated water body or series of water bodies.
- (14) “Filling” means the deposition, by any means, of materials in surface waters or wetlands, as delineated in s. 373.421(1).

**403.803 Definitions.—When used in this act, the term, phrase, or word:**

- (2) “Canal” is a manmade trench, the bottom of which is normally covered by water with the upper edges of its sides normally above water.
- (3) “Channel” is a trench, the bottom of which is normally covered entirely by water, with the upper edges of its sides normally below water.

**Rule 62-312.020 Definitions.**

- (7) “Dredging” is the excavation, by any means, in waters of the state. It is also the excavation (or creation) of a water body which is, or is to be, connected to any of the waters listed in subsection 62-312.030(2), F.A.C., directly or via an excavated water body or series of excavated water bodies.



## Potential Text Comprehensive Plan Amendment Option

### **Objective 202.48**

Monroe County shall adopt-maintain Lland Ddevelopment Rregulations which implement county policies controlling pollutant discharges into surface waters from dredge and fill activities. [9J-5.012(3)(b)2; 9J-5.013(2)(b)2] [§163.3177(6)d.2.b., F.S; §163.3177(6)d.2.e., F.S.]

### **Policy 202.84.1**

Monroe County shall support state and federal policies and regulations concerning the permitting of dredge and fill activity, except in those instances where more stringent regulations adopted by Monroe County shall be maintained. [9J-5.012(3)(e)1,2,3 and 8; 9J-5.013(2)(e)1 and 6] [§163.3177(6)d.2.b., F.S; §163.3177(6)d.2.e., F.S.]

### **Policy 202.84.2**

No new dredging shall be permitted in Monroe County. [9J-5.012(3)(e)1, §163.3177(6)d.2,3 and 8; 9J-5.013(.b., F.S; §163.3177(6)d.2)(e)1 and 6]e., F.S.]

### **Policy 202.84.3**

Channels: No maintenance dredging shall be permitted within areas vegetated with seagrass beds or characterized by hardbottom communities except for maintenance in public navigation channels.

Canals: Maintenance dredging may be permitted within a previously dredged artificial canal, including areas vegetated with seagrass beds or characterized by hardbottom communities, to restore navigational access due to storm depositions and preserve the function of the artificial canal, subject to the requirements in Policy 202.4.4. [9J-5.012(3)(e)1,2,3 and 8; 9J-5.013(2)(e)1 and 6] [§163.3177(6)d.2.b., F.S; §163.3177(6)d.2.e., F.S.]

### **Policy 202.84.4**

In artificial canals with deposits of sand from storm events, maintenance dredging may be permitted to facilitate navigational access and/or restore the function of the canal provided that:

- Shoaling and sedimentation has reduced the reasonable access to open water.
- The maintenance dredging cannot be used to dredge natural barriers (areas that have not been previously dredged) separating a canal or canal system from adjacent wetlands and/or other surface waters.
- The maintenance dredging shall not exceed depths greater than minus six (-6) feet mean low water, or to the depths of refusal (rock), whichever is more restrictive (e.g. the shallowest depth shall control).
- The maintenance dredging methodology shall not cause degradation of water quality or secondary and/or cumulative impacts to surrounding benthic resources.
- Turbidity controls shall be used to prevent reduction of light availability to seagrasses and increased sedimentation in adjacent surface waters and benthic resources.

- The quantity of mitigation for seagrass/hardbottom community resource impacts shall meet the requirements specified by the State of Florida's Uniform Mitigation Assessment Method (UMAM).
- The applicants shall provide justification that the proposed maintenance dredge is in the 'public interest.' (Public Interest means demonstrable environmental, social, and economic benefits which would accrue to the public at large as a result of a proposed action.)

**Policy 202.84.54**

In order to ~~facilitate establishment~~ prevent degradation of bottom vegetation, maintenance dredging in artificial waterways shall not exceed depths greater than minus six (-6) feet mean low water. This policy does not apply to the entrance channels into Key West Harbor and Safe Harbor. ~~{9J 5.012(3)(e)1,2,3 and 8; 9J 5.013(2)(e)1 and 6}~~ [§163.3177(6)d.2.b., F.S; §163.3177(6)d.2.e., F.S.]

**Policy 202.84.65**

All dredged spoil resulting from maintenance dredging shall be placed on permitted upland sites where drainage can be contained on-site. ~~{9J 5.012(3)(e)1,2,3 and 8; 9J 5.013(2)(e)1 and 6}~~ [§163.3177(6)d.2.b., F.S; §163.3177(6)d.2.e., F.S.]

**Policy 202.84.76**

No "after-the-fact" permits shall be issued that violate Monroe County dredge and fill regulations. All illegal structures and fill shall be removed and damages mitigated. ~~{9J 5.012(3)(e)1,2,3 and 8; 9J 5.013(2)(e)1 and 6}~~ [§163.3177(6)d.2.b., F.S; §163.3177(6)d.2.e., F.S.]



## Potential Text Land Development Code Amendment Option

### **Sec. 118-10. - Environmental design for specific habitat types.**

In addition to the general criteria set forth in this chapter, specific criteria shall apply to individual habitats as outlined in this section.

(4) Mangroves, wetlands, and submerged lands.

All structures developed, used or occupied on land classified as mangroves, wetlands or submerged lands (all types and all levels of quality) shall be designed, located and constructed such that:

- a. Generally. Only docks and docking facilities, boat ramps, walkways, water access walkways, water observation platforms, boat shelters, nonenclosed gazebos, riprap, seawalls, bulkheads, and utility pilings shall be permitted on or over mangroves, wetlands, and submerged lands, subject to the specific restrictions of this subsection. These restrictions shall not apply to disturbed wetlands that have been lawfully converted into uplands through filling. Trimming and/or removal of mangroves shall meet Florida Department of Environmental Protection requirements.
- b. Protection of circulation patterns. Shoreline structures shall be designed to protect tidal flushing and circulation patterns.
- c. **Dredging.** The following restrictions shall apply to dredging activities:
  1. No new dredging shall be allowed in the county except as specified for boat ramps in section 118-12(1) (shoreline setback, boat ramps).
  2. Channels: No maintenance dredging shall be permitted within areas vegetated with seagrass beds or characterized by hard bottom communities except for maintenance dredging in public navigation channels.
  3. Canals: Maintenance dredging may be permitted within a previously dredged artificial canal, including areas vegetated with seagrass beds or characterized by hardbottom communities, to restore navigational access due to storm depositions and preserve the function of the artificial canal, subject to the requirements in Policy 202.4.4.
43. In order to facilitate establishment and prevent degradation of bottom vegetation, maintenance dredging in artificial waterways shall not exceed depths greater than six feet at mean low water (MLW). This restriction does not apply to the entrance channels into Key West Harbor and Safe Harbor.
54. All dredged spoil materials shall be placed on permitted upland sites designed and located to prevent runoff of spoil material into wetlands or surface waters.
65. All dredge activities require approvals by the Florida Department of Environmental Protection and the U.S. Army Corps of Engineers prior to issuance of a county permit.

**January 20, 2016 BOCC Meeting**

**Item I2 – transcript of discussion**

**Cheryl Robertson:** Discussion of text amendments to allow maintenance dredging in canals with seagrasses to maintain navigability and I have several public speakers.

**Mayté Santamaria:** Good morning Commissioners. This is a discussion item as a result of a sounding board item that was back in October where residents from Duck Key came and presented an issue where Duck Key was having sedimentation within their canal system and were having difficulty in finding a solution to maintenance dredge their facilities. Currently our Comp Plan as well as our Code prohibits maintenance dredging if the area has seagrass beds or hard bottom communities. At that meeting the board discussed trying to develop a Comp Plan Amendment and Code Amendment that would allow maintenance dredging in canals with these resources but only for canals and not channels since channels may be naturally formed and not necessarily artificial. So as a result of that meeting, we've proposed some Comp Plan and Code changes for the board to consider and describe what they would like the next step to be. But I did want to point out that this may not resolve all the issues in Duck Key. There is an image on the screen right now and you can see on the right hand side in the text box the definition for canal and the definition for channel. So canal is a manmade trench with both sides normally above water and canal is not necessarily a manmade trench with both sides underwater, normally underwater. So I tried to depict, this is the image that the Duck Key property owners provided for their areas of concern, you can see there are five locations with an orange arrow that are within the canal definition. The other areas do not fall into the definition of canal and we proposed these Comp Plan amendments to only apply to canals. You can see in the yellow at the bottom of the image, there are two locations that would qualify as a channel. You can see at the top right hand corner, there is a large basin, that wouldn't be considered a canal and then you can see three areas with a blue arrow that are possibly considered open water. And I'm going to go through a few other images here. The proposed text here is what we have come up with for the potential option. Again, it's only for canals. It would allow maintenance dredging with seagrass and hard bottom communities. There would be other criteria such as...

**Commissioner Murphy:** Mayté...

**Mayté Santamaria:** Yes ma'am?

**Commissioner Murphy:** You need to get up to your microphone.

**Mayté Santamaria:** Excuse me. There would be other criteria such as it cannot be maintenance dredged of natural barriers so no new dredging. It would be to a depth of -6 feet mean low water or where you hit rock. So if you hit rock before six feet that would be the stopping point. You would have to use a methodology that doesn't degrade the water quality or cause other impacts to benthic communities, you would have to provide turbidity controls to protect the water quality surrounding, and you would have to provide mitigation as required by state agencies, and you would have to provide justification that it's within the public interest. And we have included that public interest means it's an environmental, social, and economical benefits that would accrue to the public at large as a result of the proposed action. And again, it's those canal areas that may cover but it may not cover these three areas that I had identified as potentially open water. If you can see from this image, I did two green circles of areas where you can



clearly see that there has been some sort of mechanical dredging or something has occurred. You can see the distinct outline of the perimeter around those properties and then in the white boundaries there are areas where they have identified some issues with silting and sedimentation. I don't know if that's ever been dredged or not, they would have to document that with the resource agencies to get permits but I just wanted you to be aware that this would not resolve that particular issue the way that it's worded today because again it is only for canals as drafted. And then I wanted to pull up other areas since it's not written specifically for Duck Key. This would be a Comp Plan amendment that could be applied to other areas. I just pulled other examples. You can see with the orange outlines again what would be considered canal based on the definition that is proposed in our Comp Plan as well as in state statute. You can see in the yellow, the channels that again would not apply under this Comp Plan amendment and then you can see a sort of new structure along the perimeter of the properties, where it has one edge above water and one edge below water. I don't know if that is something the Commission would like to tackle. There are a few places on Duck Key where again that occurs but not all areas and there are other areas in the Keys where it occurs like in these examples. We've pretended and called them perimeter canals but it's another option for the board to consider. And again this is just a discussion item as a result of the sounding board. We are looking for direction at what the next steps are, if the Commission is supportive of any type of amendment like this and if the Duck Key residents should apply for the Comp Plan and Code amendments.

**Commissioner Kolhage:** Madam Mayor, may I ask a question?

**Mayor Carruthers:** Yes.

**Commissioner Kolhage:** So if the ... I thought they were only asking about the stuff in the canals. Are they also asking for these other areas that you show as open water?

**Mayté Santamaria:** The materials that were provided at the sounding board meeting included all of these areas as areas of concern.

**Commissioner Kolhage:** So if they applied, all this would have to go through the DRC, Planning Commission, so forth...this would be a Comp Plan...

**Mayté Santamaria:** Correct. This would be a Comp Plan and a Code amendment. It would be Development Review Committee, Planning Commission, Board of County Commissioners for transmittal, sent to the State of Florida for DEO to review and the other state agencies...

**Commissioner Kolhage:** I mean I think the stuff in the canals is... I don't have a problem with that because you know, we're dredging canals ourselves now so it's kind of hard to say we can do it but you can't do it. The stuff outside the canals now that's problematic because we get Walker's Island involved in that and I'm a little concerned about that.

**Mayté Santamaria:** Well that's why we wanted to highlight the definitions on this page and show what areas would qualify under those definitions.

**Mayor Carruthers:** Your phrase perimeter canal sort of makes sense to me because I know that are plenty of places in Lower Keys where you have to go ...I mean you can't go there you have to go all the

way around here to get there. I can see some usefulness there and those are canals that have already been dredged. Let's hear from the public.

**Cheryl Robertson:** First speaker is Dottie Moses representing Last Stand followed by Demetrio Brid.

**Dottie Moses:** Good morning Commissioners. Dottie Moses. 1 Harbor Drive, Key Largo. I'm here today representing Last Stand. Last Stand has reviewed the proposed language and the backup for the amendment to the Comp Plan, to the Comprehensive Plan, to allow maintenance dredging of canals with seagrass and hard bottom communities. That is the change that is being discussed here. Last Stand has some concerns about the proposed amendment. We would like clarification on exactly where the dredging would be allowed given the multiple areas that Duck Key had identified in their documents. The documents show areas that are outside of the canal, manmade canals, including a boat basin and some open water areas. Last Stand opposes dredging activities outside of existing artificial manmade canals. We are also concerned that the allowed dredging would increase the canal depth to accommodate deeper draft vessels and we would like to see the language limited of dredging to the depth required in the state statute, which states it to be at five feet. Also, as this will be a County wide policy, we would like to limit the dredging activities to canals that serve already developed areas. We are aware of several areas where canals were dug and no upland development took place and we would not like to encourage development in areas that are not currently developed. Last Stand would like Monroe County to continue to main it's authority to adopt and enforce more stringent regulations than the State and Federal authorities do. The language is proposing to remove some of the language. We would like that language to stay in. That is policy 202.4.1 which says Monroe County shall support State and Federal policies and regulations concerning the permitting of dredge and fill activity except in those instances where more stringent regulations adopted by Monroe County shall be maintained. This language is being proposed to strike that. The unique and ecologically sensitive marine and coastal environments of the Keys warrant additional protections beyond that State and Federal level and so we would like to thank you for including these concerns in your discussion. One thing we did not know about was the perimeter canal discussion. That's new to us. That wasn't in a language. That is open water. There is only one side that's dredged. The rest of it is open water. So that's very worrisome that that may be... again you can already maintenance dredge if you don't have seagrass and hard bottom communities. So we are really in this proposal discussing that issue. So we are very careful. And we have a lot of language in our Comp Plan about how we intend to protect and enhance our resources and our water quality. This could have an effect on that. Thank you.

**Mayor Carruthers:** Mayté can I ask you a question? This concept of perimeter dredging, if it were to apply to this area in the Keys they would have to prove that those areas have previously been dredged, correct?

**Mayté Santamaria:** Absolutely, yes.

**Mayor Carruthers:** So it's not like they can go out and dredge something that had not been dredged...

**Mayté Santamaria:** Correct.

**Commissioner Kolhage:** But in this case it's pretty clear.

**Commissioner Murphy:** Mayté, would you list the agencies that have to give permission for this other than Monroe County.

**Mayté Santamaria:** So an applicant would have to apply for permits through Federal and State agencies. So it would need Army Corps of Engineers and through that they would get authorization from the Sanctuary. They also have to go through either DEP or South Florida Water Management District and then they would come for local permits.

**Commissioner Kolhage:** In your experience, has the Sanctuary ever denied a request?

**Mayté Santamaria:** I am not aware if it even came to my attention if they denied it, so I am not sure.

**Commissioner Kolhage:** But they have to approve everyone, every applicant including the Army Corps?

**Mayté Santamaria:** They review it through the Federal permit application to ensure that it's not going to be harming essential fish habitat, that it's not harming habitat or anything else. So they do review it through the Army Corps process but if it's denied at that step, they may never come to the County level so I may not be aware of situations where they denied it.

**Commissioner Kolhage:** One more question. If the Corps approves something and they were to deny it, would the application still go forward?

**Mayté Santamaria:** I don't believe so. I think if NOAA doesn't approve it, Army Corps can't issue it.

**Mayor Carruthers:** It looks like Rhonda has something to add here.

**Rhonda Haag:** Just real quick clarification since you did comment that the County is dredging canals also. The canals that we are removing the muck, which we call dredging by vacuum dredging, are very poor canals. They don't have any sea life so far don't have any sea life at all especially seagrass so we're not removing seagrass from our canal restoration program just to clear that for the public. It's a little bit different but I understand the situation.

**Cheryl Robertson:** Next speaker is Demetrio Brid representing Duck Key Community Benefit followed by David Williamson.

**Demetrio Brid:** Thank you for receiving me. Reformed I am a Duck Key I'm from Miami. Bought a house in Duck Key about a year ago. Previously was living in Islamorada on a non-flow through canal and I think that's a very important term, non-flow through and flow through. I bought a house in Duck Key because of the natural beauty of Duck Key and I am from South Florida so I really can appreciate what these flow through canals provide in terms of value and in terms of beauty. I think there is a number of issues that have been raised here. One of them is perimeter canal, what the definition is, yes or no, I think all that should be very straightforward, what constitutes a canal, what constitutes a channel, what constitutes a perimeter canal. In Duck Key, we have researched it and there's data going back to the fifties and before where this was a manmade dredged canal. So the precedent exists and I think when we formed Duck Key Community Benefit, I'm beginning to realize we're kind of treading uncharted territory in terms of what the Commission has had before it before and what constitutes maintenance dredging and what does not. So I just want to clarify that our intent from the beginning is to preserve the natural beauty

of the marine sanctuary. We live in an area; the area has been previously dredged. What we're looking to do...no one has ever addressed maintenance dredging in the area. It's been well over sixty years so there is silt and I might add, we have had a benthic survey...there is no hard bottom. What there is, is seagrass...it's our opinion that it has come around because of the silting up which allows the sunlight to come through and have photosynthesis so seagrass is not a native species to these man made dredged canals. So what we're seeking to do in harmony with all of the regulations provided by NOAA, by the Army Corps which takes its direction from NOAA is to do maintenance dredging in a form that will maintain flow through. Flow through canals ensure sea life will flourish in the area. Where you have silting up, you have trash accumulating on the bottom and it's really compromising the quality of the canals. So I want to emphasize that we have applied for permits with the DEP, with the Army Corps. We have raised money from private citizens given that there is no private association, a homeowner's association in Duck Key. So all of this is voluntary money which is being funneled in a way that is in harmony with all existing laws and what we want to emphasize is that our intent is to preserve the flow through nature of the canals and do that in a way which is acceptable from an environmental standpoint.

**Commissioner Murphy:** Sir I'd like to correct you on two points. Be very careful when you use timelines. As in the fifties and before. Have paperwork that shows the years that those canals were dug because they were dug after that. The other thing is the seagrass. It is native to that area; the perimeter canals...it was there when the perimeter canals were dug and back then we didn't know the value of seagrass and nobody cared and everybody dredged. But it is native to that area.

**Demetrio Brid:** Okay to the man-made canals?

**Commissioner Murphy:** and the perimeter canals. No, you were talking about the perimeter canals.

**Demetrio Brid:** No, no I was saying the man-made canals.

**Commissioner Murphy:** No they were simply mangroves.

**Commissioner Kolhage:** Well three quarters of Duck Key is filled anyway. So it was all grass.

**Demetrio Brid:** That's okay I just ... I apologize if I... I do have from the fifties something that I researched that's in the...

**Commissioner Murphy:** Yes but not prior to...

**Demetrio Brid:** Not prior to okay I apologize I was inaccurate but be that as it may I think that the main point that I want to emphasize is that we are going through the process in the proper legal way and what our intent is, is to preserve the flow through nature of the canals...preserve in fact the natural fauna there.

**Commissioner Murphy:** I don't live on a canal what is a non-flow through, something that's blocked at one end?

**Demetrio Brid:** Well I used to live in Islamorada on Cortez and what it is, is a lot of the Keys were dredged and then they filled you know for the highway and stuff but there is no outlet going back out...back out to the ocean. So Duck Key is unique in that and that's a very good point you raised...

**Commissioner Murphy:** Everything goes flow through...

**Demetrio Brid:** Everything goes flow through which you know you see manatees in there, there are nurse shark that go through there. So having flow through is essential I think to preserve the sea life in the area so that's where we're coming from on this thing.

**Mayor Carruthers:** Thank you sir. I have a question and I am not sure if it's going to be Mayté or Mike Roberts or somebody else can answer this question.

**Mayor Carruthers:** What is the depth of water beyond which seagrass cannot grow...in other words beyond which there is insufficient sunlight to allow photosynthesis?

**Commissioner Neugent:** Depends on how clear the water is.

**Mayor Carruthers:** Well, okay. But assuming water clarity which is always our goal.

**Mayté Santamaria:** As Commissioner Neugent stated, it depends on water clarity. I would say probably on average, deeper than eight feet it's more difficult for the light to penetrate. I've read a bunch of papers on it, I'm going from memory right now but I believe it's about eight feet.

**Mayor Carruthers:** I was just curious because we had six feet in our code and the state has five feet and I just ...

**Commissioner Kolhage:** But that six feet is in our code right, so we're consistent...

**Mayté Santamaria:** Correct. Our Comp Plan and our Code currently have six feet.

**Mayor Carruthers:** Next speaker please.

**Cheryl Robertson:** David Williamson representing Duck Key Property Association followed by our final speaker Beth Ramsay-Vickrey.

**David Williamson:** Good morning. My name is David Williamson. I've already previously been introduced but I think I want to start a little bit backwards first before we move forward. Sherry Popham is unable to speak who has previously spoke to your group regarding the situation we have at Duck Key and unfortunately she has a board meeting at the hospital so she has asked me step in and speak on her behalf. We actually have been working on this for over two years and trying to figure out a methodology to solve the issue in Duck Key and we realize that we are not solely the only individuals in this County that have this problem. What we are requesting is the maintenance dredging and I want to speak this morning also about the clarification regarding the...identified what is being called a channel. This area was dug and it has been at least...and I do know this for a fact that it was dredged after hurricane George. Rock was used to reinstall and protect the barrier of the canal area itself. It was necessary for the barge operator to dredge that area when they were working...

**Commissioner Kolhage:** Which area are you talking about?

**David Williamson:** In the channel, what is being called the channel now. This area was after hurricane George, I believe it caused the stone to be moved and it was inadequate stone to protect the canals and the residents and as a result of that Mr. David Lion worked with a not for profit that did help with funding the



project and the area that was re-stoned was beginning all the way back into the harbor where the marina is located for Hawk's Cay. That whole area was stoned.

**Commissioner Kolhage:** Let me stop you a minute. Don't count his time on this please. Let me ask you a question Mayté...the arrow was pointing to the channel but is it only the cross hatch area that they are asking for maintenance dredging... a permit for maintenance dredging ?

**David Williamson:** If you look at the far, what is the west end...that little green area where the arrow points right into...after Wilma that area became much more impacted with sediment as the storm surge pushed through the island itself what occurred was many of the interior areas where they have identified as well were silted after Wilma. The water that came in resulted in Center Island being totally flooded across the island and it pushed sediment into that area. It also came and attempted to flow in any way that it couldn't move where it flowed up and over the tops of these canals and what is impacted is the area which is this diagram you are being shown today is now depicted as a channel. That was dredged and has always been dredged for the creation of that and the stone was applied to protect that and prevent that from filling back in when constructed. So I think there is a definite clarification that it may be earmarked today as a channel but it was dredged the same as it was on the east side of the island itself going back towards the marina and that was stoned to allow that to prevent re-silting.

**Commissioner Murphy:** Sir, how far out are you asking to re-dredge that channel?

**David Williamson:** I think the way ... it's totally incorrectly drawn and I am going to step away for a minute...(he walks over and begins pointing to map and referring to arrows)

**Commissioner Murphy:** Sir, I can't see a thing.

**David Williamson:** This is the area, the inside; this is a canal coming across the front of the properties. That has nothing to do with the area we are...

**Commissioner Murphy:** Can you get from that canal out into the open water or is that land in there?

**David Williamson:** This area here is a canal. This is the dredged area.

**Commissioner Neugent:** Right and show it where it exits.

**David Williamson:** It exits right here and as you can see there is a channel that goes back out...

**Commissioner Murphy:** Okay and there is one on the other side.

**David Williamson:** (I cannot hear this portion as he is very far from mike and speaking quieter)

**Commissioner Murphy:** Okay how far out...

**David Williamson:** We're not going out. We're staying totally inside what was previously dredged and what was previously originally...

**Commissioner Murphy:** No...where it shows it coming out. You're not asking to dredge that?

**David Williamson:** No we are not. ...cannot hear him... he is saying something to the end of the canal to the termination point.

**Mayor Carruthers:** Wait I thought you were talking about only dredging the areas that are cross hatched. The little black areas with the stripes in it, right?

**David Williamson:** Yes that's... this is the area. This does not need dredging back here. The only area that we are doing is where this is silted at the very end of the island itself.

**Commissioner Neugent:** And you're right Dave if I understood you correctly that that problem was mostly created by hurricane George.

**David Williamson:** George and Wilma.

**Commissioner Neugent:** But my phone call started with George.

**David Williamson:** Well that's a good name. So I want to be clear that it is important that we clear that today. We are not asking to go in any areas other than what were previously created and maintained... what was created. We are not asking to go out into the harbor, we are not asking to go out and doing any channels that would be ...and those are regulated by the Corps as well.

**Commissioner Murphy:** That's where the arrow goes that's why I wanted to know.

**David Williamson:** It's very confusing and that's why I want staff and also yourselves to understand that the area at the very far end has become almost virtually impassable for vessels and yes there is seagrass that has developed in this area and while we are aware that it is a prohibition but we have taken the steps and I want to clarify this today for your benefit and for future board members as well, for the council and the community. We have, in the process of contracting upon an approval to engage a firm that will actually do the seagrass restoration and the replacement of that will be managed by a company privately so that we are not in any way... yes we will disturb seagrass in this process but we will also be definitely replacing under a formula that will be regulated and replace the seagrass where we are directed to replace that.

**Commissioner Murphy:** You're displacing seagrass in a canal?

**David Williamson:** That is correct.

**Commissioner Murphy:** Mayté, if there is rip rap and then a perimeter canal, and then land ... how does that whole thing get silted in?

**Mayté Santamaria:** I wouldn't be able to explain that and just to clarify, I don't know if this pointer is working... so there is the edge of the land here where there is the jetty and the homes and the seawalls and then beyond that there was some identified area that doesn't have sides have sides above water. That was the only area that I was identifying as the channel based on the definition that the sides are below water and I had specifically drafted this amendment for canals based on the sounding board item and the board discussion to focus on canals that were artificially made previously and previously dredged. And unlike Walker's Island where it was a channel and out in open water.

**David Williamson:** Mayté, thank you very much. I think one of the things that I want to share with you is that is not done perfectly to scale... I do reside on that side of the island and go out through that channel ... the water depth through that channel is adequate. The problem that has occurred is that the brick wall itself, meaning the rip rap has deteriorated because of George and unfortunately the grant and the monies that were originally set forward in this application resulted in... they ran out of money. And they didn't have enough stone to go the final hundred and twenty five yards on that and as a result that is further and we are researching how to replace that and fund that as a community as well but if it was restored to the original character that it was and also to the level that the other areas are it would absolve that problem from reoccurring so we do realize we need to address that. There is no sense in doing the dredging if we can't take and add the rip rap back to the area where it previously was and that's what has caused this silting.

**Commissioner Murphy:** So you're only going to go back as far as the rip rap was damaged?

**David Williamson:** That is correct that is the...

**Commissioner Murphy:** Not the whole perimeter canal.

**David Williamson:** I previously stated that is not perfect to scale and it's reflecting that and that actually the area that was, and I want to clearly point out that the area on that ...(pointing with laser pointer) coming down to that property right there along... that is all dredged. That whole area is dredged on that far side. I have fourteen foot of water in front of my own home. So that is actually dredged area so it was previously dredged and I don't know what you would call that... a manmade canal or a dredged channel I guess is what that terminology is. But at this point I would like to clarify that.

**Mayor Carruthers:** Can I ask a question? The second box from the upper right hand corner... the basin... there is a curvy line defining that basin where it says basin. Now look where the green arrow points to the right to the inset photo. What is that curved line? Is that rip rap? So that's rip rap defining the basin?

**David Williamson:** And again this area as it travels the canal along the front of these residences and this area, this was dredged and I don't know if the Corps dredged the channel coming in. That was well before my time. I've only been here fifteen years.

**Mayor Carruthers:** The three areas that are pointed to with a blue open water arrows...we don't know if they were ever dredged do we?

**David Williamson:** We don't know that answer and that's what we're asking to determine whether they were permitted dredging, accidental dredging or whatever the case ...we don't have any documentation on that and we are not asking for these areas to be dredged.

**Mayor Carruthers:** You're not? Okay you're not asking for those areas...

**David Williamson:** This area, this is the canal area, the ones that have been identified are the interiors. This area has not been, nor this area has not been identified for any dredging at this point because we don't have the research to know that.

**Commissioner Kolhage:** Okay so Mayté...



**Commissioner Murphy:** We've already (can't hear over other mic's) of a channel that was dredged thirty five years ago and never dredged again and we turned it down so ...

**Commissioner Kolhage:** Why, if they're not asking for any permission to dredge there, why are they on the map?

**Mayté Santamaria:** This was the documentation handed out at the sounding board item and by Sherry Popham, I used her image I just clipped it out and identified based on our definitions.

**Commissioner Kolhage:** Okay so we want clarification today. **You're not asking for any of those areas shown as open water?**

**David Williamson:** **These two areas exactly. And this area we are not asking today.**

**Commissioner Rice:** **What about the basin?**

**David Williamson:** The basin is by...is not (pointing to map)

**Commissioner Rice:** No, no the basin (pointing for him to go other way)

**David Williamson:** **Over here, okay, we are not asking for that today.**

**Commissioner Kolhage:** Oh well okay.

**Mayor Carruthers:** That makes our life a little easier.

**David Williamson:** Surely and I apologize. This map was originally created by the Committee, showing the areas that did need dredging and **we as the property owners association are requesting the interior canals and those areas that are impacted and becoming impassable.**

**Commissioner Murphy:** Those are part of the canals.

**Commissioner Rice:** Let me say if I can, from a historical perspective, if Sylvia you'll promise not to ask me the exact same thing here because I can't get it to you, I sat on that not for profit board after the hurricane that restored the outside perimeter there and David is exactly right, I think they ran a little short of money, did a great job, they were drilling holes in huge boulders and driving stainless steel spikes to keep them from moving in the future. But they did run a little bit out of money toward the end and the replacement on that end over here where you're seeing ...

**Mayor Carruthers:** The west end ...

**Commissioner Murphy:** Oh okay I was going to ask you where that hundred feet was

**Commissioner Rice:** That didn't get done to the same level as the rest of it and presumably that's why...

**Commissioner Neugent:** They didn't run out of money David... you just spent more money than they gave you.

**Commissioner Rice:** No never.

**Commissioner Murphy:** We know how you are David.

**David Williamson:** It wasn't David's fault and I only want to point out that the stone might be a little bit higher than what might have been originally intended in the harbor basin so I would like... I just would like to make one further clarification. These areas are becoming impacted. I want to point out we do not have the research on these particular areas to know that this was ever dredged or not. This area did fill in during hurricane Wilma dramatically and did impact the homeowner's properties. But we are not currently requesting these areas to be dredged. This is separate; this is under the auspices and control of the marine operation at Hawk's Cay.

**Mayor Carruthers:** Next speaker please. Thank you Mr. Williamson.

**Cheryl Robertson:** Final speaker is Beth Ramsay-Vickrey.

**Beth Ramsay-Vickrey:** Good morning Commissioners. Beth Ramsay-Vickrey, No Name Key. I am in support of the maintenance dredging in the canals. This is something that we talked about at the Comp Plan. It was an important subject and I thank you all for bringing it back today for further discussion. **The one issue that I had that I am asking you to consider is in the language we are using, "to restore navigational access due to storm deposition." I'd like to see if we could change that to, "restore navigational access due to sedimentary depositions."** Sedimentary is defined as silty, muddy, and sandy, or sandy. This scenario of storm moving sand works for ocean side canal properties but it doesn't work for the bay side properties. The bay side properties, our biggest issue is the rafts of seaweed coming in, sinking, and degrading and turning into muck. The channels are just clogged up with muck. That degrades our water quality, our canals, our property value, and our communities. With this one word change we can address the needs of the ocean side homes and the bay side homes. And I think that would make the policy fair for everyone throughout the Keys.

**Commissioner Rice:** Yeah Beth I had pointed this out earlier in the meeting with staff. I don't think we care what the material is or what put it there. We care that it's there and impeding the water flow and impeding navigation. **So I totally agree with you on that point.**

**Mayor Carruthers:** Well as long as it wasn't intentionally deposited to create a need to dredge.

**Commissioner Rice:** We would presume we would have staff smart enough to figure that out too.

**Mayor Carruthers:** Well does it have to say **natural sedimentary depositions**?

**Beth Ramsay-Vickrey:** I am sure Mayté is awesome at figuring out the wording. I just chose the word sedimentary because the definition was silty, muddy, or sandy and I thought those covered the conditions that addressed both ocean side but ...

**Commissioner Rice:** And I'm certainly not hearing our precise or exact wording but I think that Beth has made a good point.

**Commissioner Kolhage:** The other thing is how would we prove one way or another how it got there without eye witness...

**Commissioner Neugent:** Oh you can now.

**Commissioner Murphy:** Oh yeah. It's easy. Right through your fingers you can tell.

**Commissioner Neugent:** It goes on every day.

**Beth Ramsay-Vickrey:** Thank you.

**Commissioner Kolhage:** No I mean how would you prove that it was storm, just storm related?

**Commissioner Murphy:** Storm is actually the lowest of the possibilities. It sedimentizes every day. A little bit comes in, a little bit comes in.

**Mayor Carruthers:** There was a little island off of... near Boca Grande that wasn't there until after Wilma. Now it's a bird sanctuary and you can't walk on it. It wasn't there before Wilma and now it's there and it's just sort of funny.

**Commissioner Kolhage:** Madam Mayor, you know we've got a good clarification today as you say greatly simplifies this issue I think. But those perimeter canals that you talk about Mayté...they are...that's problematic. I don't know how, I mean how do you go about that and not getting us into a situation where Walker's Island comes back and says look this is very similar. This was once dredged back in the day and this is attached to open water the same as we are. You know is that a problem? How can we deal with that? Although I do see the need for it, especially in this kind of case you know.

**Mayté Santamaria:** I tried to come up with a definition last night there at the bottom of the screen. **A perimeter canal is a manmade trench the bottom of which is normally covered by water with one of the upper edges of its sides normally above water and the other edge below water. That actually would cover just the ones that are adjacent to land where one side is above water** so it would be different than the Walker's Island situation where both edges were below water. And it just came to light when I was trying to prepare this for you today to have a graphic of what we were talking about but I realized there was another situation of canals that may or may not be addressed and just bringing that to your attention.

**Mayor Carruthers:** **I would say I also like Last Stand's suggestion that it be by currently developed properties not adjacent to undeveloped land.**

**Commissioner Murphy:** Yes that's important.

**Mayor Carruthers:** I mean the only way...having said that I can see that there...I'm thinking of like channels to get out of Summerland Key and some places in Cudjoe where you have to go around to get out to open water and part of that channel or canal or perimeter canal if you want to call it, that was at one point dredged past those undeveloped areas so I mean we got to figure out a way to do that so that we are not encouraging development unless it's something about **maintaining contiguous transportation from developed property to open water or something.** I mean you guys are smarter than we are so.

**Commissioner Murphy:** Heather though don't you think since we can't dredge anymore canals, make any more canals, don't you think that if the land were suitable for development it would already have been developed in this County as much as people love living on these canals? I can't think of any canal that isn't already built on if it can be built on. The others are part of wetland you know they are part of Florida Forever, whatever has come up. They're not available for permits.



**Mayor Carruthers:** Maybe so. I think, and please correct me if I am wrong but I think staff you have some idea of where we are going now. I mean am I hearing that there is concurrence that we want people to be able to maintain navigability in these previously dredged manmade canals. Obviously we have very...anybody that's going to do this has a whole lot of other hoops to jump through in terms of permits from federal and state agencies correct? I mean is there anything else that ...

**Mayté Santamaria:** Would you like staff to process this or would you like the Duck Key Properties Association to apply for the amendments to the Comp Plan and code?

\*All Commissioners shout out "Yes"

**Commissioner Murphy:** They should be responsible.

**Mayté Santamaria:** And just to be clear. I understand now that they are not proposing the open water or the basin but the channel area below where he said it ends... you know Duck Key has that sort of point at the end and then water... there is a little area in that picture where it goes beyond the edge of land where he was talking about the rip rap.

**Commissioner Murphy:** The two cross hatches at the bottom...one on either side?

**Mayté Santamaria:** (pointing with laser pointer) Right there.

**Commissioner Murphy:** And what about the one on the other side?

**Mayté Santamaria:** I don't know which one you are talking about.

**Commissioner Murphy:** Well it's on the bottom, it's the cross hatch on the bottom.

**Mayté Santamaria:** (pointing with laser pointer) Right here?

**Commissioner Murphy:** No go the other way...there, there you go.

**Mayté Santamaria:** That part is within the canal. This piece is where it leaves the land. Where the edges are no longer above water. I want to just be clear, do you want us to try to help them propose language for that or keep it to canals because if we allow it where both edges are underwater then it would open up other opportunities.

**Mayor Carruthers:** Don't open up other opportunities.

**Commissioner Murphy:** I agree.

**Roman Gastesi:** Does that serve their purpose though that they need?

**Commissioner Murphy:** Well they can make it serve their purpose I think.

**Roman Gastesi:** Well they need to apply

**Commissioner Murphy:** Yes they do.

**Commissioner Neugent:** Mayté, my feelings are that speaking specifically to Duck Key that what I am hearing and I agree with and there is a lot of cost, there is a lot of agencies that are going to weigh in to whether this can happen or not but I think what the residents of Duck Key want to maintain is keeping the controlling depths of the water to where they can navigate those waters with the vessels that they keep at their homes or in the boat house or whatever and as far as doing anything and as far as doing anything that is environmentally destructive I don't think that that enters into the discussion at all. So how we maintain or they maintain and controlling depths of their waters I'm pretty sure I support. So that's my point.

**Commissioner Murphy:** Remember the unintended consequences George?

**Commissioner Neugent:** What would be the unintended consequences of maintaining what existed years and years ago?

**Commissioner Murphy:** But that applies to Little Palm Key or whatever they named that thing.

**Commissioner Neugent:** No no no. You're talking canals and channels and that's not Walker's Island.

**Commissioner Rice:** And I think we have all learned something from this which is obviously learned by the rest of Duck Key. You probably don't need to wait sixty years take care of this problem. Next time you won't have seagrass.

**Mayor Carruthers:** So you have your...

**Mayté Santamaria:** So we'll wait for an application and we'll process it through the normal process.

**Commissioner Murphy:** I have a question for Mayté.

**Mayor Carruthers:** Okay make it quick because we are running out of time.

**Commissioner Murphy:** Okay why do we have a depth of six feet and everyone else has five?

**Mayté Santamaria:** I honestly can't answer that question for you.

**Commissioner Murphy:** Who put six feet in there?

**Mayté Santamaria:** I believe it's been in there since 1986 but I don't know the source.

**Commissioner Murphy:** This in other words, the six feet has been part of our Comp Plan and all along...

**Mayté Santamaria:** Yes.

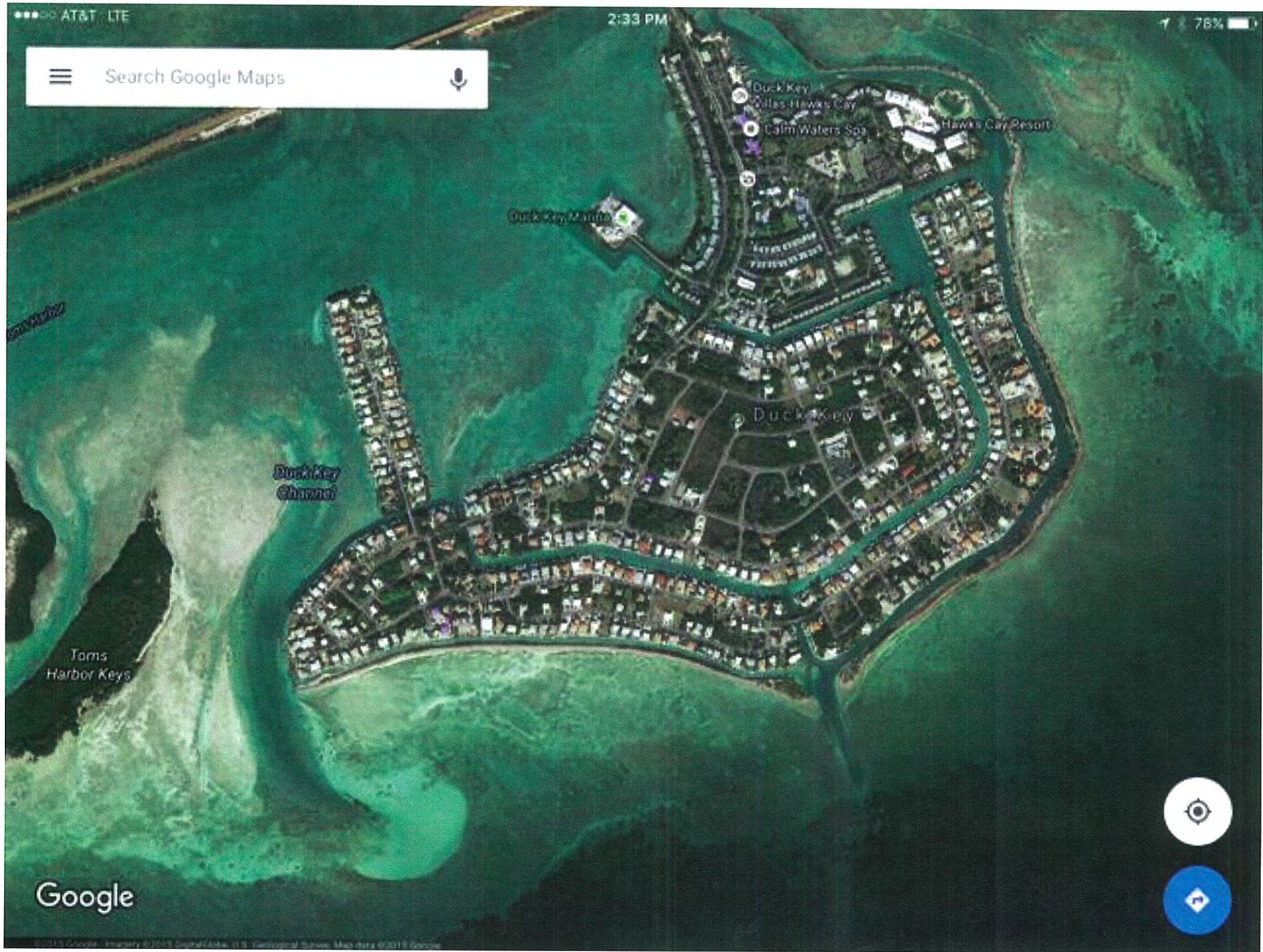
**Commissioner Murphy:** Even though the state says five?

**Mayté Santamaria:** Correct. And the state says five when there is no evidence of any previous permits or anything else.

**Commissioner Murphy:** I am not objecting to six feet, I'm just curious as to why.



Search Google Maps



Google



# Situation

- Duck Key canals created more than 60 years ago
- 3 miles of canals and perimeter waterways (created by a breakwall)
- DK canals are open at both ends allowing tidal currents to course through – one of only 3 keys with ‘clean’ water
- While in general the canals are in good shape, some are silting up due to currents and storms
- Hurricanes Georges and Wilma accelerated silting and damaged the south breakwall, partially repaired
- No appreciable maintenance performed since construction

# DKPOA Involvement

- The Duck Key Property Owners Association conducted a survey of the DK residents' community priorities
- Canal maintenance was the second highest priority item, with more than 80% support
- A team of DKPOA directors was asked to study the feasibility of restoring the canals
- DKPOA commissioned an engineering survey to determine the extent of the silting

# ACoE/DEP Rules

- Maximum canal depth 5' at low tide
- Must mitigate damage to the environment (live coral and sea grass)
- May not dredge new channels
- Must drain silt before transportation
- Use of removed material as fill only in approved locations



# Bathymetric survey results

- 8 areas were identified that have silted up to less than 5' depth at low tide:
  - Hawk's Cay marina basin center and under docks (A)
  - South/east perimeter canal south of the HK pond (B)
  - South/east inside canal near the main south entry (C)
  - South/west perimeter canal at the main south entry and about 1/3 of its length from the west entry (D+F)
  - South/west inside canal at elbow bend opposite the Halliburton property (E)
  - North shore along Bimini Drive (G)
  - West shore of Harbour Island (H)

# Surveyed Areas



- LEGEND:**
- ⊙ = Benchmark
  - = Cross Section
  - = Cut Area (to feet above Mean Low Water)
  - = Cut Depth (to 3 feet above Mean Low Water)
  - MLW = Mean Low Water
  - NAD = North American Datum
  - NVAD = North American Vertical Datum
  - NCS = National Geospatial Survey
  - ### = number

## SPECIFIC PURPOSE SURVEY DUCK KEY, FLORIDA

### INDEX OF SHEETS:

Sheet 1 Cover  
Sheet 2-8 Plan Sheets  
Sheet 7-15 Cross Section Sheets



LOCATION/KEY MAP  
(NOT TO SCALE)

### SURVEYORS NOTES:

- The survey date is 08/15/14.
- This is a Specific Purpose Survey, as defined in Chapter 51-17.00(1)(a)-1 of the Florida Administrative Code.
- This survey map and report or the copies thereof are not valid without the signature and the original raised seal of a Florida Licensed Surveyor and Mapper.
- Additions or deletions to survey maps or reports by other than the signing party or parties is prohibited without written consent of the signing party or parties.
- Copyright © 2014 by Reese & Associates, Inc.
- Elevations shown herein were established using a Real Time Global Positioning System (RTK GPS) and referenced to the North American Vertical Datum of 1988 (NAVD 88), as established by National Geospatial Survey (NGS) benchmark "872 3922 TGA, 2" having a published elevation of 3.57 (NAVD 88).
- Cut Quantities shown herein were established by volume calculations between data collected by bathymetric survey techniques and an arbitrary surface that was created five feet above Mean Low Water (MLW). Mean low water was obtained from tide station number 872-3927 (Duck Key) dated 03-18-2004 having a published elevation of Mean Lower Water of -1.58' (NAVD 88).
- The coordinates shown herein are referenced to the Florida State Plane Coordinate System, East Zone, North American Datum of 1983, 2007 adjustment (NAD83/2007), as established using Real-Time Kinematic Global Positioning System (RTK GPS) survey methods. The corrected positions computed were verified through a redundancy of measurements to meet or exceed closure for a limit linear 1 foot in 5,000 feet. All distances shown herein are in U.S. Survey Feet.
- Aerial imagery shown herein was obtained from the Land Boundary Information System (LBIS) dated 2012 and is shown for informational purposes only.
- Notes shown herein are cut depths to 3 feet above Mean Low Water Elevation.

### CERTIFICATION:

I HEREBY CERTIFY THAT THIS SURVEY WAS MADE UNDER MY RESPONSIBLE CHARGE AND MEETS THE STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 51-17.

RESE & ASSOCIATES, INC.  
PROFESSIONAL SURVEYOR AND MAPPER  
17700 WINDY RIDGE AVENUE, SUITE 200  
DUNEDIN, FLORIDA 33511  
TEL: 813.851.1111 FAX: 813.851.1111

DATE: 08/15/14  
DRAWN BY: [Signature]  
CHECKED BY: [Signature]  
SCALE: AS SHOWN

PROJECT: DUCK KEY  
SHEET 7 OF 15

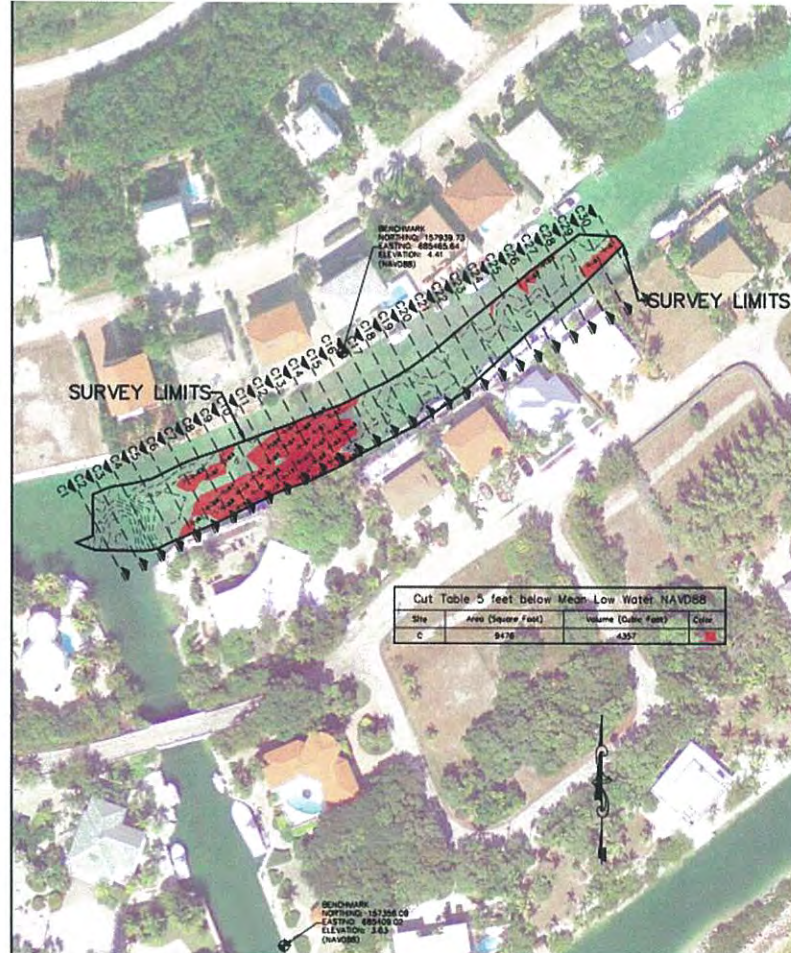
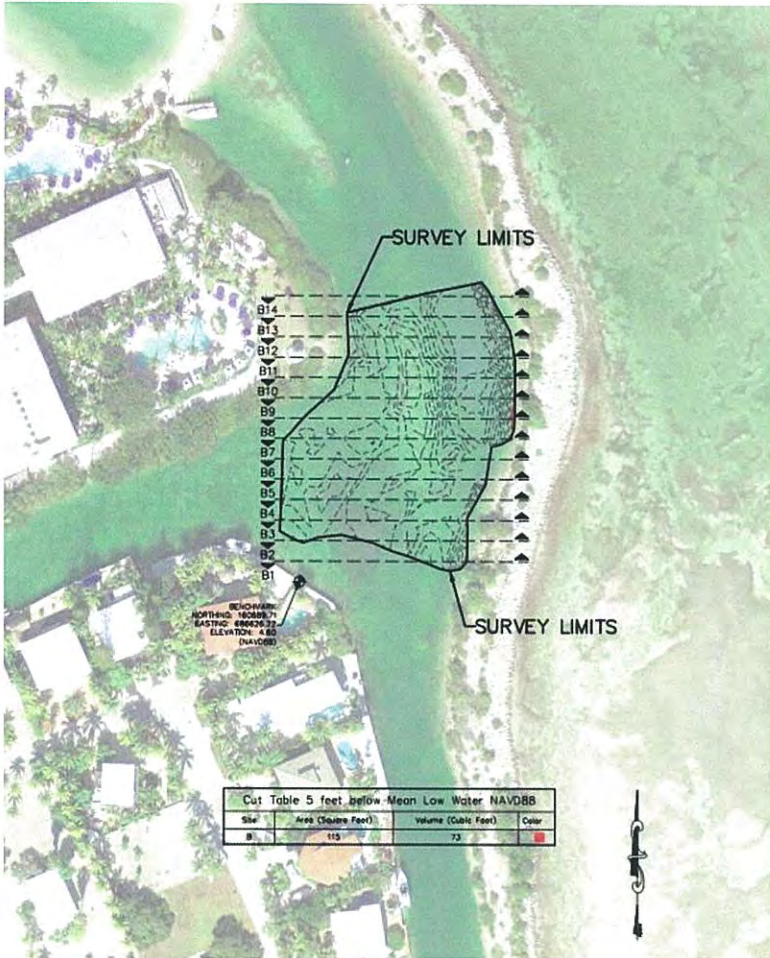
DUCK KEY  
7 OF 15  
RESE & ASSOCIATES, INC.







# Area B and C



PROJECT ASSOCIATE  
PROFESSIONAL SURVEYOR  
177 INDUSTRIAL BLVD., SUITE 200  
DADE COUNTY, FL 33137  
DATE: 08/16/12  
JOB: 12-0001

**JRPOSE SURVEY**  
CK KEY  
OWNERS Association

DATE: 08/16/12  
JOB: 12-0001

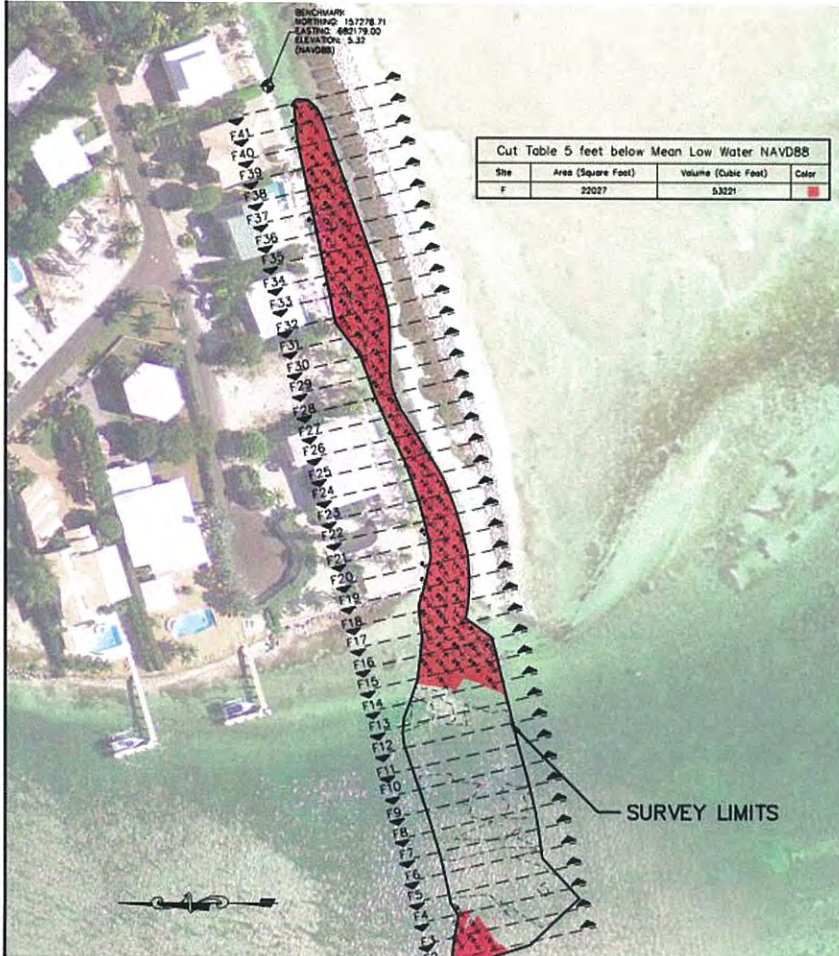
DATE: 08/16/12  
JOB: 12-0001







# Area F and G

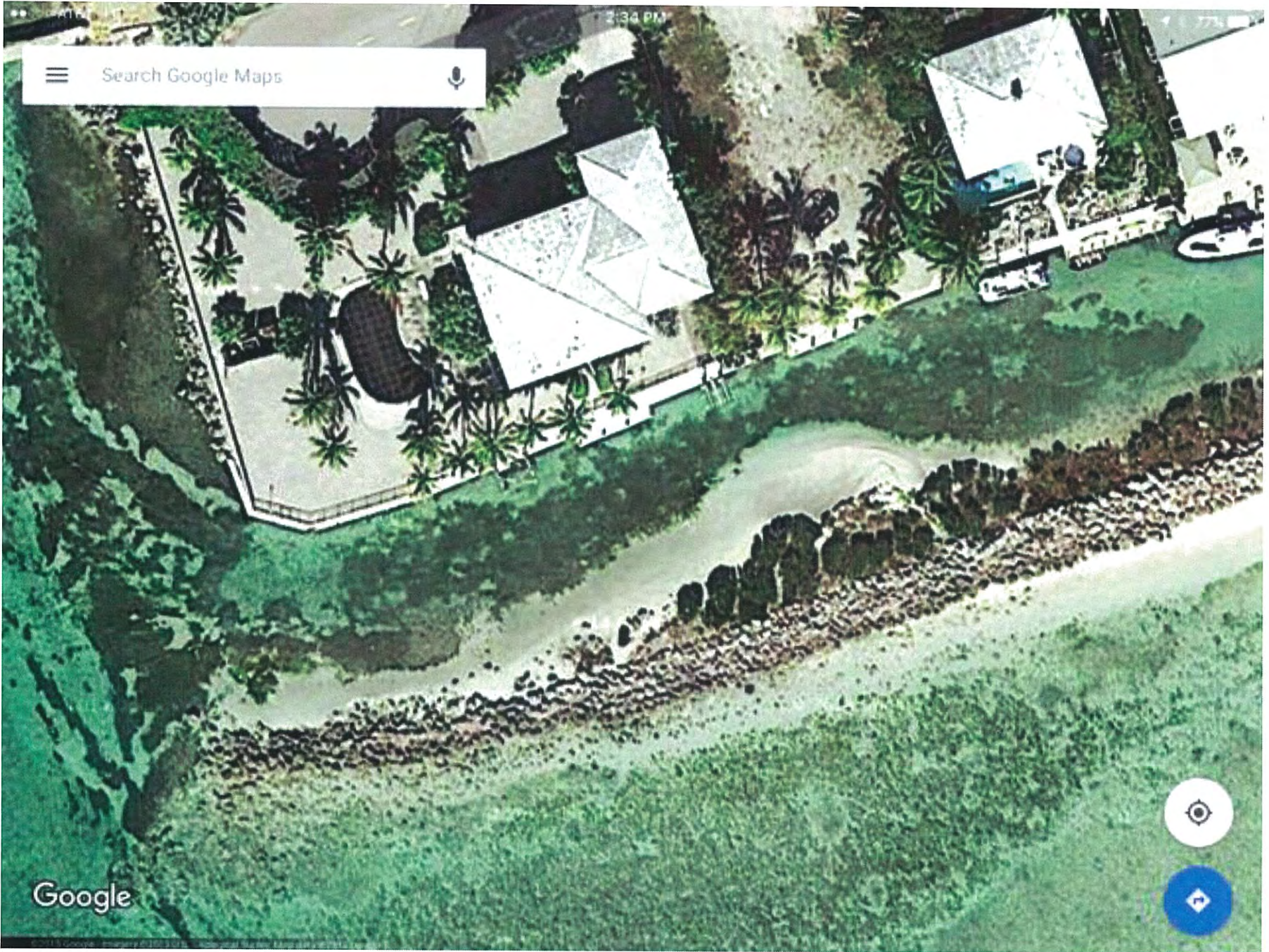




# Area H







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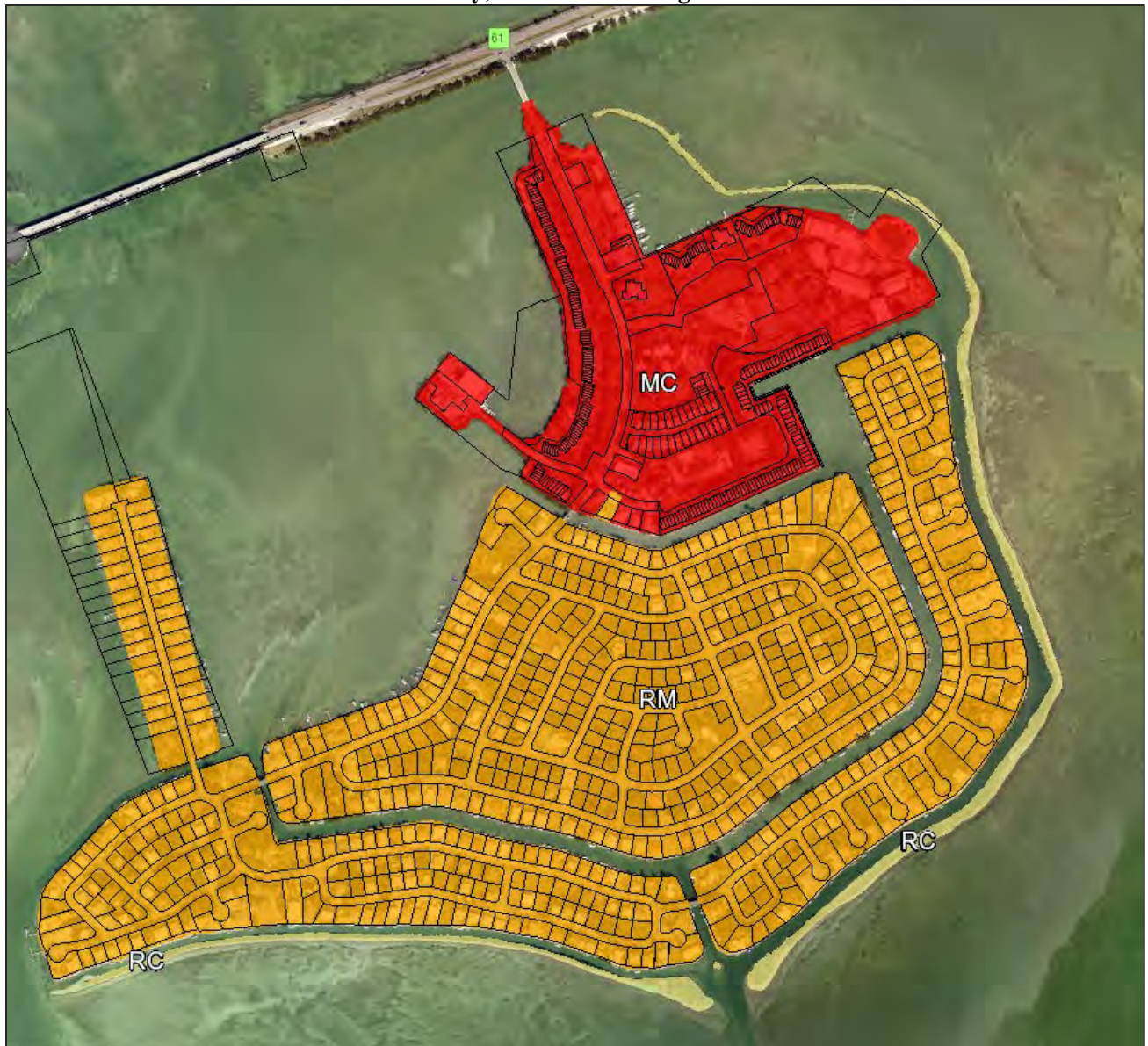


1 **II. BACKGROUND INFORMATION**

2  
3 **Site Information**

4 Duck Key is located at mile marker 61 along the Overseas Highway, between the City of Marathon  
5 and Long Key. The island is the site of Hawk's Cay Resort, which has a Future Land Use Map  
6 designation of Mixed Use/Commercial (MC); as well as approximately 660 parcels of land with  
7 FLUM designations of Residential Medium (RM), of which approximately 370 are developed with  
8 single family dwellings or duplexes (attached dwelling units). The proposed amendments would  
9 affect waterways within and adjacent to Duck Key. The Applicant, Demetrio Brid, is a property  
10 owner on Duck Key.  
11  
12

**Duck Key, with FLUM designations**



13  
14  
15

1 **Previous Relevant County Action and Direction**

2 On March 21, 2014, the BOCC reviewed draft amendments to the Comprehensive Plan for the 2030  
3 Comprehensive Plan update project and directed staff to develop a text amendment to allow  
4 maintenance dredging at the mouth of a canal to restore navigational access.  
5

6 On July 23, 2014, the BOCC reviewed draft amendments to the Comprehensive Plan for the 2030  
7 Comprehensive Plan update project, including text amendments to allow maintenance dredging at  
8 the mouth (entrance) of a canal. At that time, the BOCC recommended maintaining the proposed  
9 amendment in the 2030 Comprehensive Plan update draft.  
10

11 On October 7, 2014, the BOCC reviewed draft amendments to the Comprehensive Plan for the 2030  
12 Comprehensive Plan update project, including text amendments to allow maintenance dredging at  
13 the mouth of a canal. The BOCC directed deletion of the proposed amendments relating to  
14 maintenance dredging at the mouth (entrance) of a canal.  
15

16 BOCC Sounding Board:

17 On October 21, 2015, at a regularly scheduled BOCC meeting, there was a Sounding Board item to  
18 “*speak to the County Commissioners in regards to Duck Key Property Owner’s Association*  
19 *concerns regarding decreasing water quality and accessibility in the renowned free flowing*  
20 *waterways that intersect the five islands that compromise Duck Key*” by Sherry Popham. Ms.  
21 Popham, representing Duck Key residents and Duck Key Property Owner’s Association, provided a  
22 hand-out to the BOCC regarding Duck Key Canal Restoration (attached as Exhibit 1) which  
23 identified eight areas in Duck Key that have silted up to less than 5ft of depth at low tide. Ms.  
24 Popham noted that no appreciable maintenance has been performed since construction of the canals  
25 60+ years ago. Ms. Popham described the canal system as free-flowing, teeming with sea life and  
26 seagrass, and with good water quality. Ms. Popham also described the creation of an attractive  
27 nuisance with the white sand deposition in the entrance canal (described in the hand-out as Area F),  
28 creating a white sandy beach within the canal. The movement of deposits of sand from storm events,  
29 water quality, property value impacts and navigability issues were mentioned. The Duck Key  
30 residents, represented by Ms. Popham, asked the BOCC to consider modifying the current County  
31 prohibitions that prevent the restoration of the canals (i.e. to allow maintenance dredging where there  
32 are seagrasses and hardbottom communities). Duck Key representatives have reviewed the various  
33 governmental agency requirements and noted that they believe the requirements of the state and  
34 federal agencies can be met but cannot move forward with the County’s prohibition on maintenance  
35 dredging in areas with seagrass beds or characterized by hardbottom communities.  
36

37 The BOCC discussed the possibility of a specific Comprehensive Plan amendment to address canal  
38 maintenance and asked County staff to bring back potential options (not to open uncontrolled  
39 dredging or to allow the creation of new canals) for BOCC discussion.  
40

41 BOCC Discussion Item:

42 On January 20, 2016, at a regularly scheduled BOCC meeting, there was a discussion item on the  
43 agenda regarding “*text amendments to allow maintenance dredging in canals with seagrasses to*  
44 *maintain navigability,*” as a follow-up to the October 21, 2015 Sounding Board discussion. Staff  
45 provided the BOCC with a potential 2010 Comprehensive Plan and Land Development Code  
46 amendment option based on the October 21, 2015 BOCC discussion, and also recommended that the



1 Duck Key residents submit an application for such text amendments (the Agenda Item and a full  
2 transcript of the discussion is attached as Exhibit 2).

3  
4 As part of the discussion, Staff pointed out the distinction between *canals*, *channels*, *basins*, and  
5 *open water*, and applied the definitions to each area that had been identified by Duck Key property  
6 owners for potential maintenance dredging during the October 21, 2015 Sounding Board discussion.  
7 Staff's potential text amendment language included provisions to allow maintenance dredging in  
8 areas with benthic resources within canals only, provided certain conditions are met, such as: no  
9 maintenance dredging of natural barriers (no new dredging); maximum of depth of -6 feet mean low  
10 water or depth of refusal (hit rock); methodology does not degrade the water quality or cause other  
11 impacts to benthic communities; must provide turbidity controls to protect surrounding water  
12 quality; must provide mitigation as required by state agencies; and the applicant has to provide  
13 justification that it is within the public interest. Staff's original potential text amendment language as  
14 presented at the January 20, 2016 meeting is included in Exhibit 2.

15  
16 During the discussion, the BOCC considered potentially including *perimeter canals* as a type of  
17 waterway allowed to maintenance dredge under the text amendment language presented by Staff.  
18 Staff's proposed definition for *perimeter canal* was: *a manmade trench, the bottom of which is*  
19 *normally covered by water with one of the upper edges of its sides normally above water and the*  
20 *other edge below water.*

21  
22 A property owner from Duck Key, addressed the BOCC and clarified that the property owners were  
23 not proposing to dredge any of the areas shown on the map that qualify as channels, basins, or open  
24 water.

25  
26 Another member of the public addressed the BOCC and requested that the phrase "...to restore  
27 navigational access due to storm depositions..." be changed to say "...to restore navigational access  
28 due to sedimentary depositions..." in order to address bay side canals that have deposits of non-  
29 storm related muck.

30  
31 The BOCC gave the following direction at the January 20, 2016 meeting:

- 32 • the Duck Key property owners should apply for the applicable text amendments;
- 33 • the BOCC would be willing to consider such amendments if limited to previously dredged  
34 manmade canals and possibly previously dredged manmade perimeter canals, but not for open  
35 water, basins, or channels;
- 36 • the BOCC was favorable towards changing "storm depositions" to "sedimentary deposition,"  
37 "natural sedimentary depositions," or similar language;
- 38 • the BOCC was favorable towards limiting eligible canals to those adjacent to developed  
39 properties or those needed to maintain contiguous transportation from developed properties to  
40 open water, or similar language; and,
- 41 • the BOCC was not in favor of allowing maintenance dredging in areas with benthic resources in  
42 channels, even if at the mouth of a canal – areas where both edges are under water.

1 On February 21, 2017, at a regularly scheduled meeting, the Monroe County DRC held a public  
2 meeting to review and discuss the proposed text amendments. In response to the DRC staff report  
3 and staff discussion at the meeting, the Applicant revised their proposed amendment language.  
4

5 On August 30, 2017, at a regularly scheduled meeting, the Monroe County Planning Commission  
6 (PC) held a public hearing to review and make a recommendation on the proposed amendments, and  
7 to provide for public comment. The PC adopted Resolution #P31-17 (Exhibit 3), recommending  
8 approval of the amendment to the BOCC, with several changes as proposed by staff and members of  
9 the PC at the hearing.

10 On December 13, 2017, at its regularly scheduled meeting, the BOCC adopted Resolution 362-2017  
11 (Exhibit 4) transmitting the proposed ordinance amending the Monroe County Comprehensive Plan,  
12 to include the definition of perimeter canal in the glossary, amending policy 202.4.3 and creating  
13 new policy 202.4.4., to the State of Florida for review by the Department of Economic Opportunity  
14 (DEO).  
15

16 On February 27, 2018, the County received DEO's ORC report regarding the proposed amendment  
17 (Exhibit 5). The ORC report did **not** identify any objections or comments. The County has 180 days  
18 from receipt of the ORC report to adopt, adopt with changes, or not adopt the proposed amendment.  
19 The deadline for adoption is August 27, 2018.  
20

## 21 **Existing Adopted 2030 Comprehensive Plan Policies and LDC Regulations**

### 22 **2030 Comprehensive Plan:**

#### 23 **CP Glossary:**

24 *Canal* means a manmade trench, the bottom of which is normally covered by water with the upper edges  
25 of its sides normally above water.  
26

27 *Channel* means a trench, the bottom of which is normally covered entirely by water, with the upper edges  
28 of its sides normally below water.  
29

30 *Dredging* means excavation below water level or in wetlands.  
31

32 *Maintenance Dredging* means the removal of shoaling and/or sedimentation in channels, basins, canals,  
33 and harbors necessary to return such areas to their previous configurations, dimensions and depths.  
34 Maintenance dredging is subject to specific conditions and limitations (e.g., natural resource restrictions  
35 and dredged spoil disposal methods).  
36

37 *Public Navigation Channel* means a channel that was constructed or is maintained by a public entity, such  
38 as a federal or State agency, Monroe County or other local government for the purpose of transporting  
39 people or goods for commerce, recreation or other purposes.  
40

#### 41 **Objective 202.4**

42 Monroe County shall maintain Land Development Regulations which implement county policies controlling  
43 pollutant discharges into surface waters from dredge and fill activities.  
44

#### 45 **Policy 202.4.1**

46 Monroe County shall support state and federal policies and regulations concerning the permitting of dredge  
47 and fill activity, except in those instances where more stringent regulations adopted by Monroe County shall  
48 be maintained.  
49

1 **Policy 202.4.2**

2 No new dredging shall be permitted in Monroe County.

3  
4 **Policy 202.4.3**

5 No maintenance dredging shall be permitted within areas vegetated with seagrass beds or characterized by  
6 hardbottom communities, except for maintenance in public navigation channels.

7  
8 **Policy 202.4.4**

9 In order to prevent degradation of bottom vegetation, maintenance dredging in artificial waterways shall not  
10 exceed depths greater than minus six (-6) feet mean low water. This policy does not apply to the entrance  
11 channels into Key West Harbor and Safe Harbor.

12  
13 **Policy 202.4.5**

14 All dredged spoil resulting from maintenance dredging shall be placed on permitted upland sites where  
15 drainage can be contained on-site.

16  
17 **Policy 202.4.6**

18 Due to the physical structure, depth, and orientation of existing canals, water quality problems have been  
19 caused which cannot be improved with wastewater treatment and stormwater management practices alone. To  
20 implement the 2013 Monroe County Canal Management Master Plan and improve water quality in artificial  
21 canals, the County is developing canal restoration projects to improve tidal flushing, increase dissolved  
22 oxygen concentrations as identified in the surface water quality criteria in Ch. 62-302.530, F.A.C., and  
23 remove accumulated nutrients and decomposing organic material.

24  
25 Canal restoration projects, developed to determine the effectiveness of water quality strategies of the Florida  
26 Keys National Marine Sanctuary Water Quality Protection Program, which are performed or funded by public  
27 entities (County, State, or Federal) for organic material removal and backfilled to a depth of 6ft - 8ft, or an  
28 alternative depth as determined by best available scientific data and authorized by the state and federal  
29 permitting agencies, from artificial canals characterized as having poor or fair water quality within the 2013  
30 Monroe County Canal Management Master Plan are exempt from the provisions in Policy 202.8.4.

31  
32 Two (2) demonstration pilot canal restoration projects will remove decomposing organic material from  
33 previously dredged artificial canals (down to the bedrock) without backfilling. To evaluate the effectiveness  
34 of this removal strategy, without any backfilling, and to determine if water quality can be restored and  
35 maintained, water quality monitoring of these two (2) organic removal pilot projects shall be conducted at a  
36 two (2) year point of time and a ten (10) year point of time after completion of the pilot projects. After the two  
37 (2) year and ten (10) year monitoring, the County shall request a water quality report from the Water Quality  
38 Protection Program (WQPP) to determine the pilot projects' effectiveness in improving dissolved oxygen  
39 concentrations, as identified in the surface water quality criteria in Ch. 62-302.530, F.A.C., in the two (2)  
40 organic removal pilot projects canals. If the WQPP does not provide the water quality report, the County shall  
41 fund and conduct the water quality report. If the water quality report for the two (2) year monitoring indicates  
42 improved water quality, additional canal restoration projects, beyond the two (2) pilot projects, to perform  
43 organic material removal to depths greater than minus six (-6) feet mean low water without backfilling to 6ft-  
44 8ft may proceed.

45  
46 Upon determination of the two (2) pilot projects' effectiveness and an amendment to this Policy, the  
47 exemption to the provisions in Policy 202.8.4 may be expanded beyond public entities (County, State, or  
48 Federal) for organic material removal of previously dredged artificial canals characterized as having poor or  
49 fair water quality within the 2013 Monroe County Canal Management Master Plan. The organic material  
50 removal shall be allowed to depths greater than minus six (-6) feet mean low water, if permitted by Florida  
51 Department of Environmental Protection or the Water Management District and the Army Corp of Engineers.



1 For this policy, hydraulic (vacuum) dredging shall be considered the preferred means of removal of the  
2 organic material. If hydraulic dredging is not proposed to accomplish the organic material removal, a public  
3 hearing before the Board of County Commissioners (BOCC) shall be required prior to issuance of a county  
4 permit. The BOCC shall hold a public hearing on the request to use an alternative dredging methodology and  
5 shall consider the cost, rationale, compatibility, complications and public comments. The public hearing shall  
6 provide the applicant the opportunity to address the issues regarding the proposed canal restoration project,  
7 including but not limited to, sediment size, logistical/accessibility limitations, obstructions and/or equipment  
8 constraints. The BOCC may grant, grant with conditions or deny the request to use an alternative dredging  
9 methodology.

10  
11 **Policy 202.4.7**

12 No "after-the-fact" permits shall be issued that violate Monroe County dredge and fill regulations. All illegal  
13 structures and fill shall be removed and damages mitigated.

14  
15 **Land Development Code:**

16  
17 **Sec. 101-1. Definitions.**

18 *Canal* means a manmade trench, the bottom of which is normally covered by water with the upper edges  
19 of its sides normally above water.

20  
21 *Channel* means a trench, the bottom of which is normally covered entirely by water, with the upper edges  
22 of its sides normally below water.

23  
24 *Dredging* means excavation below water level or in wetlands.

25  
26 *Maintenance dredging* means the removal of shoaling and/or sedimentation in channels, basins, canals,  
27 and harbors necessary to return such areas to their previous configurations, dimensions and depths.  
28 Maintenance dredging is subject to specific conditions and limitations (e.g., natural resource restrictions  
29 and dredged spoil disposal methods).

30  
31 **Sec. 118-10. Environmental Design for Specific Habitat Types.**

32 In addition to the general criteria set forth in this chapter, specific criteria shall apply to individual habitats as  
33 outlined in this Section.

34 \* \* \*

35 (d) Mangroves, wetlands, and submerged lands. All structures developed, used or occupied on land classified  
36 as mangroves, wetlands or submerged lands (all types and all levels of quality) shall be designed, located and  
37 constructed such that:

- 38 (1) Generally. Only docks and docking facilities, boat ramps, walkways, water access walkways, water  
39 observation platforms, boat shelters, nonenclosed gazebos, riprap, seawalls, bulkheads, and utility  
40 pilings shall be permitted on or over mangroves, wetlands, and submerged lands, subject to the specific  
41 restrictions of this subsection. Trimming and/or removal of mangroves shall meet Florida Department  
42 of Environmental Protection requirements.
- 43 (2) Protection of circulation patterns. Shoreline structures shall be designed to protect tidal flushing and  
44 circulation patterns.
- 45 (3) Dredging. The following restrictions shall apply to dredging activities:
- 46 a. No new dredging shall be allowed in the County except as specified for boat ramps in Section 118-  
47 12(1) (shoreline setback, boat ramps).
- 48 b. No maintenance dredging shall be permitted within areas vegetated with seagrass beds or  
49 characterized by hard bottom communities except for maintenance dredging in public navigation  
50 channels.

- 1 c. In order to facilitate establishment and prevent degradation of bottom vegetation, maintenance  
2 dredging in artificial waterways shall not exceed depths greater than six feet at mean low water  
3 (MLW). This restriction does not apply to the entrance channels into Key West Harbor and Safe  
4 Harbor.
- 5 d. All dredged spoil materials shall be placed on permitted upland sites designed and located to prevent  
6 runoff of spoil material into wetlands or surface waters.
- 7 e. All such projects shall require approval by the Florida Department of Environmental Protection and  
8 the U.S. Army Corps of Engineers prior to the commencement of development or construction and/or  
9 prior to the issuance of a County 'Notice to Proceed.'
- 10 f. Exemptions:
- 11 1. Pursuant to Policy 202.8.6, canal restoration projects developed to determine the effectiveness of  
12 water quality strategies of the Florida Keys National Marine Sanctuary Water Quality Protection  
13 Program that meet the following criteria are exempt from the restrictions in 118-10(d)(3)b:
- 14 i. Projects are limited to previously dredged artificial canals characterized as having poor or fair  
15 water quality within the 2013 Monroe County Canal Management Master Plan.
- 16 ii. Projects are performed or funded by public entities (county, state, or federal) for organic  
17 material removal; and
- 18 iii. Projects are backfilled to a depth of six to eight feet (6ft - 8ft), or an alternative depth as  
19 determined by best available scientific data and authorized by the state and federal permitting  
20 agencies; and
- 21 iv. Hydraulic (vacuum) dredging shall be considered the preferred means of removal of the  
22 organic material. If hydraulic dredging is not proposed to accomplish the organic material  
23 removal, a public hearing before the Board of County Commissioners (BOCC) shall be  
24 required prior to issuance of a County permit.
- 25 2. Pursuant to Policy 202.8.6, two (2) demonstration pilot canal restoration projects to remove  
26 decomposing organic material from previously dredged artificial canals (down to the bedrock)  
27 without backfilling will be performed and evaluated for effectiveness. Water quality monitoring of  
28 these two (2) organic removal pilot projects shall be conducted at a two- (2) year point of time and  
29 a ten- (10) year point of time after completion of the pilot projects, and a water quality report shall  
30 be reviewed to determine the effectiveness in improving dissolved oxygen concentrations, as  
31 identified in the surface water quality criteria in Ch. 62-302.530, F.A.C., in the two (2) organic  
32 removal pilot projects canals.
- 33 (4) Placement of fill. No fill shall be permitted in any mangroves, wetlands, or submerged lands except:
- 34 a. As specifically allowed by this Section or by Section 118-12(k) (Bulkheads, Seawalls, Riprap) and  
35 118-12(l) (Boat Ramps);
- 36 b. To fill a manmade, excavated water body such as a canal, boat ramp, boat slip, boat basin or  
37 swimming pool if the County Biologist determines that such filling will not have a significant adverse  
38 impact on marine or wetland communities;
- 39 c. As needed for shoreline stabilization or beach renourishment projects with a valid public purpose that  
40 furthers the goals of the Monroe County Comprehensive Plan, as determined by the County Biologist;
- 41 d. For bridges extending over salt marsh and/or buttonwood association wetlands that are required to  
42 provide automobile or pedestrian access to lawfully established dwelling units located on upland  
43 areas within the same property for which there is no alternate means of access. Such bridges shall be  
44 elevated on pilings so that the natural movement of water, including volume, rate and direction of  
45 flow shall not be disrupted or altered; or
- 46 e. As approved for Disturbed Salt Marsh and Buttonwood Association Wetlands with appropriate  
47 mitigation as defined by the wetland regulations of subsection (e)(6) of this Section.
- 48 (5) After-the-fact exclusion. No after-the-fact permits shall be issued that violate the County dredge and  
49 filling regulations. All fill shall be removed and all damages mitigated.
- 50  
51

1 **Relevant Definitions from Florida Administrative Code and Florida Statute**

2  
3 **Florida Department of Environmental Rule 18-21.003, F.A.C., provides definitions for private and**  
4 **public channel, as follows:**

5  
6 **Rule 18-21.003 Definitions.**

7 When used in these rules, the following definitions shall apply unless the context clearly indicates otherwise:

- 8 (46) **“Private channel”** means a channel that is dredged or maintained by private entities to provide access  
9 to or from such locations as private residences, marinas, yacht clubs, vessel repair facilities, or revenue-  
10 generating facilities.  
11 (50) **“Public channel”** means a channel that is constructed or maintained by a public entity such as a  
12 federal or state agency, local government, or inland navigation district listed in Chapter 374, F.S., or that  
13 is part of a public navigation project, public water management project, or a deepwater port listed in  
14 Section 403.021(9)(b), F.S.  
15 (52) **“Public navigation project”** means an activity primarily for the purpose of navigation which is  
16 authorized and funded by the United States Congress or by port authorities as defined by Section  
17 315.02(2), F.S.  
18

19 **Section 373.403, F.S. Definitions.—**

20 When appearing in this part or in any rule, regulation, or order adopted pursuant thereto, the following terms  
21 mean:

- 22 (8) **“Maintenance”** or **“repairs”** means remedial work of a nature as may affect the safety of any dam,  
23 impoundment, reservoir, or appurtenant work or works, but excludes routine custodial maintenance.  
24 (13) **“Dredging”** means excavation, by any means, in surface waters or wetlands, as delineated in s.  
25 373.421(1). It also means the excavation, or creation, of a water body which is, or is to be, connected to  
26 surface waters or wetlands, as delineated in s. 373.421(1), directly or via an excavated water body or  
27 series of water bodies.  
28 (14) **“Filling”** means the deposition, by any means, of materials in surface waters or wetlands, as  
29 delineated in s. 373.421(1).  
30

31 **403.803 Definitions.—When used in this act, the term, phrase, or word:**

- 32 (2) **“Canal”** is a manmade trench, the bottom of which is normally covered by water with the upper edges of  
33 its sides normally above water.  
34 (3) **“Channel”** is a trench, the bottom of which is normally covered entirely by water, with the upper edges  
35 of its sides normally below water.  
36

37 **Rule 62-312.020 Definitions.**

- 38 (7) **“Dredging”** is the excavation, by any means, in waters of the state. It is also the excavation (or creation)  
39 of a water body which is, or is to be, connected to any of the waters listed in subsection 62-312.030(2),  
40 F.A.C., directly or via an excavated water body or series of excavated water bodies.  
41  
42  
43  
44  
45  
46  
47  
48  
49



1 **III. PROPOSED COMPREHENSIVE PLAN TEXT AMENDMENT**

2  
3 **Applicant’s Proposed Comprehensive Plan Text Amendment,**  
4 **including recommendations made by the Planning Commission in Reso P31-17 and adopted by**  
5 **the BOCC during the transmittal phase through Resolution 362-2017**  
6

7 The Applicant’s proposed text, as submitted on August 11, 2017, is shown in green. Changes  
8 recommended by the Planning Commission in Resolution P31-17 and adopted by the BOCC through  
9 Resolution 362-2017 (includes changes proposed by staff and by Planning Commission at the PC  
10 hearing) are shown in purple with deletions as a ~~double strikethrough~~, and additions as a double  
11 underline):

12  
13 **Glossary:**

14 **Perimeter Canal:** means a manmade trench, the bottom of which is normally covered by water with  
15 one of the upper edges of its sides normally above water and the other edge below water.

16  
17 **Policy 202.4.3**

18 No maintenance dredging shall be permitted within areas vegetated with seagrass beds or  
19 characterized by hardbottom communities, except for maintenance in public navigation channels; in  
20 canal restoration projects pursuant to Policy 202.4.6; or in the manmade artificial canals of Duck  
21 Key (MM 61), pursuant to Florida Department of Environmental Protection and U.S. Army Corps of  
22 Engineers permits, to restore navigational access obstructed by natural sedimentary depositions,  
23 ~~when the proposed maintenance dredging is in the public interest, and is~~ subject to the requirements  
24 in Policy 202.4.4.

25  
26 **Policy 202.4.4**

27 Within the manmade artificial canals of Duck Key (MM 61), maintenance dredging within areas  
28 vegetated with seagrass beds or characterized by hardbottom communities may be permitted to  
29 facilitate restore navigational access, provided that:

- 30 1. Shoaling or natural deposition and sedimentation has obstructed or reduced reasonable access to  
31 open water.
- 32 2. The maintenance dredging cannot be used to dredge natural barriers (areas that have not been  
33 previously dredged) separating canals from adjacent wetlands and/or other surface waters.
- 34 3. The maintenance dredging shall not exceed depths greater than minus six (-6) feet mean low  
35 water, or to the depths of refusal (rock), whichever is more restrictive (e.g. the shallowest depth  
36 shall control).
- 37 4. The maintenance dredging methodology shall not cause degradation of water quality or  
38 secondary and/or cumulative impacts to surrounding benthic resources.
- 39 5. Turbidity controls shall be used to prevent reduction of light availability to seagrasses and  
40 increased sedimentation in adjacent surface waters and benthic resources.
- 41 6. The quantity of mitigation for seagrass/hardbottom community resource impacts shall meet the  
42 requirements specified by the State of Florida's Uniform Mitigation Assessment Method  
43 (UMAM); and
- 44 7. The proposed maintenance dredging is in the “public interest” (for the purposes of this policy,  
45 “public interest” means demonstrable environmental, social, and/or economic benefits which  
46 would accrue to the public at large as a result of a proposed action). The applicant shall be

responsible for providing justification that the proposed maintenance dredging is in the “public interest.”

**Policy 202.4.54**

In order to prevent degradation of bottom vegetation, maintenance dredging in artificial waterways shall not exceed depths greater than minus six (-6) feet mean low water. This policy does not apply to the entrance channels into Key West Harbor and Safe Harbor.

**Policy 202.4.65**

All dredged spoil resulting from maintenance dredging shall be placed on permitted upland sites where drainage can be contained on-site.

**Policy 202.4.76**

Due to the physical structure, depth, and orientation of existing canals, water quality problems have been caused which cannot be improved with wastewater treatment and stormwater management practices alone. To implement the 2013 Monroe County Canal Management Master Plan and improve water quality in artificial canals, the County is developing canal restoration projects to improve tidal flushing, increase dissolved oxygen concentrations as identified in the surface water quality criteria in Ch. 62-302.530, F.A.C., and remove accumulated nutrients and decomposing organic material.

Canal restoration projects, developed to determine the effectiveness of water quality strategies of the Florida Keys National Marine Sanctuary Water Quality Protection Program, which are performed or funded by public entities (County, State, or Federal) for organic material removal and backfilled to a depth of 6ft - 8ft, or an alternative depth as determined by best available scientific data and authorized by the state and federal permitting agencies, from artificial canals characterized as having poor or fair water quality within the 2013 Monroe County Canal Management Master Plan are exempt from the provisions in Policy 202.8.4.

Two (2) demonstration pilot canal restoration projects will remove decomposing organic material from previously dredged artificial canals (down to the bedrock) without backfilling. To evaluate the effectiveness of this removal strategy, without any backfilling, and to determine if water quality can be restored and maintained, water quality monitoring of these two (2) organic removal pilot projects shall be conducted at a two (2) year point of time and a ten (10) year point of time after completion of the pilot projects. After the two (2) year and ten (10) year monitoring, the County shall request a water quality report from the Water Quality Protection Program (WQPP) to determine the pilot projects' effectiveness in improving dissolved oxygen concentrations, as identified in the surface water quality criteria in Ch. 62-302.530, F.A.C., in the two (2) organic removal pilot projects canals. If the WQPP does not provide the water quality report, the County shall fund and conduct the water quality report. If the water quality report for the two (2) year monitoring indicates improved water quality, additional canal restoration projects, beyond the two (2) pilot projects, to perform organic material removal to depths greater than minus six (-6) feet mean low water without backfilling to 6ft-8ft may proceed.

Upon determination of the two (2) pilot projects' effectiveness and an amendment to this Policy, the exemption to the provisions in Policy 202.8.4 may be expanded beyond public entities (County,

1 State, or Federal) for organic material removal of previously dredged artificial canals characterized  
2 as having poor or fair water quality within the 2013 Monroe County Canal Management Master  
3 Plan. The organic material removal shall be allowed to depths greater than minus six (-6) feet mean  
4 low water, if permitted by Florida Department of Environmental Protection or the Water  
5 Management District and the Army Corp of Engineers.  
6

7 For this policy, hydraulic (vacuum) dredging shall be considered the preferred means of removal of  
8 the organic material. If hydraulic dredging is not proposed to accomplish the organic material  
9 removal, a public hearing before the Board of County Commissioners (BOCC) shall be required  
10 prior to issuance of a county permit. The BOCC shall hold a public hearing on the request to use an  
11 alternative dredging methodology and shall consider the cost, rationale, compatibility, complications  
12 and public comments. The public hearing shall provide the applicant the opportunity to address the  
13 issues regarding the proposed canal restoration project, including but not limited to, sediment size,  
14 logistical/accessibility limitations, obstructions and/or equipment constraints. The BOCC may grant,  
15 grant with conditions or deny the request to use an alternative dredging methodology.  
16

17 **Policy 202.4.87**

18 No "after-the-fact" permits shall be issued that violate Monroe County dredge and fill regulations.  
19 All illegal structures and fill shall be removed and damages mitigated.  
20 Monroe  
21

#### 22 23 24 **IV. ANALYSIS OF PROPOSED AMENDMENT** 25

26 The current adopted Monroe County 2030 Comprehensive Plan prohibits new dredging and prohibits  
27 maintenance dredging in areas vegetated with seagrass beds or characterized by hardbottom  
28 communities.

29 ***Policy 202.4.2***

30 *No new dredging shall be permitted in Monroe County.*  
31

32 ***Policy 202.4.3***

33 *No maintenance dredging shall be permitted within areas vegetated with seagrass beds or*  
34 *characterized by hardbottom communities, except for maintenance in public navigation*  
35 *channels.*  
36

37 As described in the June staff report, the Monroe County Board of County Commissioners (BOCC)  
38 has previously expressed a willingness to consider a text amendment that would allow maintenance  
39 dredging in areas vegetated with seagrass beds or characterized by hardbottom communities, only  
40 within canals and possibly perimeter canals.

41 The proposed text amendment language is largely based on the language presented to the BOCC by  
42 Staff at the January 20, 2016 BOCC meeting. The Applicant's proposal also incorporates several  
43 changes directed by the BOCC at that meeting.  
44



1 The BOCC gave the following direction regarding a potential text amendment for maintenance  
2 dredging as presented at the January 20, 2016 meeting:

- 3 • the Duck Key property owners should apply for the applicable text amendments;
- 4 • the BOCC would be willing to consider such amendments if limited to previously dredged  
5 manmade canals and possibly previously dredged manmade perimeter canals, but not for open  
6 water, basins, or channels;

7 **The proposed language includes canals only, which is consistent with BOCC direction.**  
8

- 9 • the BOCC was favorable towards changing “storm depositions” to “sedimentary depositions,”  
10 “natural sedimentary depositions,” or similar language;

11 **The proposed language has changed “storm depositions” to “natural depositions.”**  
12

- 13 • the BOCC was favorable towards limiting eligible canals to those adjacent to developed  
14 properties or those needed to maintain contiguous transportation from developed properties to  
15 open water, or similar language;

16 **The Applicant has proposed the text amendment to apply to Duck Key only, rather than to  
17 Monroe County in its entirety. This would be consistent with the BOCC direction, as the vast  
18 majority of property along waterways on Duck Key is developed.**  
19

- 20 • the BOCC was not in favor of allowing maintenance dredging in areas with benthic resources in  
21 channels, even if at the mouth of a canal – areas where both edges are under water.

22 **The proposed language includes canals only, which would not allow maintenance dredging in  
23 channels with benthic resources, and is therefore consistent with BOCC direction.**

24 The potential text amendment language presented by Staff at the January 20, 2016 BOCC meeting  
25 included a criterion related to public interest within proposed Policy 202.4.4:

- 26 • *The applicants shall provide justification that the proposed maintenance dredge is in the  
27 ‘public interest.’ (Public Interest means demonstrable environmental, social, and  
28 economic benefits which would accrue to the public at large as a result of a proposed  
29 action.)*

30 **The proposed language includes this criterion, and is therefore consistent with BOCC  
31 direction.**

32 In reviewing the revised proposal for internal consistency with the newly adopted and effective 2030  
33 Comprehensive Plan, the following Comprehensive Plan provisions may be in conflict with the  
34 proposal when read outside of the context of the entire Comprehensive Plan:  
35

36 ***Goal 202***

37 *The environmental quality of Monroe County's estuaries, nearshore waters (canals, harbors,  
38 bays, lakes and tidal streams,) and associated marine resources shall be maintained and, where  
39 possible, improved or restored.*  
40

1 **Goal 203**

2 *The health and integrity of living marine resources and marine habitat, including mangroves,*  
3 *seagrasses, coral reefs, other hard bottom communities and fisheries, shall be protected and,*  
4 *where possible, restored and enhanced.*

5  
6 **Objective 203.2**

7 *Monroe County shall protect submerged lands vegetated with seagrasses by maintaining*  
8 *regulations which further reduce direct and indirect disturbances to seagrasses.*

9  
10 The BOCC will be balancing site specific needs with impact to environmental resources as they  
11 consider the proposed amendment. The proposed policy language includes criteria for qualifying  
12 maintenance dredging projects that seek to minimize the impact on marine resources. Additionally,  
13 each individual project seeking approval under the proposed policies will be required to demonstrate  
14 that maintenance dredging is in the “public interest,” meaning there is a demonstrable  
15 environmental, social, and economic benefit which would accrue to the public at large as a result of  
16 a proposed action.

17  
18 **V. CONSISTENCY WITH THE MONROE COUNTY COMPREHENSIVE PLAN, THE**  
19 **PRINCIPLES FOR GUIDING DEVELOPMENT, AND FLORIDA STATUTES.**

20  
21 **A. The proposed amendment is consistent with the Goals, Objectives and Policies of the**  
22 **Monroe County 2030 Comprehensive Plan. Specifically, it furthers:**

23  
24 **Goal 101**

25 Monroe County shall manage future growth to enhance the quality of life, ensure the safety of  
26 County residents and visitors, and protect valuable natural resources.

27  
28 **Objective 202.4**

29 Monroe County shall maintain Land Development Regulations which implement county policies  
30 preventing controlling pollutant discharges into surface waters from dredge and fill activities.

31  
32 **The proposed amendment may be internally inconsistent with the following Goals,**  
33 **Objectives and Policies of the Monroe County 2030 Comprehensive Plan when read outside**  
34 **of the context of the entire Comprehensive Plan and the proposed site specific policy:**

35  
36 **Goal 202**

37 The environmental quality of Monroe County's estuaries, nearshore waters (canals, harbors,  
38 bays, lakes and tidal streams,) and associated marine resources shall be maintained and, where  
39 possible, improved or restored.

40  
41 **Goal 203**

42 The health and integrity of living marine resources and marine habitat, including mangroves,  
43 seagrasses, coral reefs, other hard bottom communities and fisheries, shall be protected and,  
44 where possible, restored and enhanced.

1           **Objective 203.2**

2           Monroe County shall protect submerged lands vegetated with seagrasses by maintaining  
3           regulations which further reduce direct and indirect disturbances to seagrasses.  
4

5           **B. The amendment is consistent with the Principles for Guiding Development for the Florida**  
6           **Keys Area, Section 380.0552(7), Florida Statutes.**  
7

8           For the purposes of reviewing consistency of the adopted plan or any amendments to that plan  
9           with the principles for guiding development and any amendments to the principles, the principles  
10          shall be construed as a whole and no specific provision shall be construed or applied in isolation  
11          from the other provisions.

- 12          (a) Strengthening local government capabilities for managing land use and development so that local  
13              government is able to achieve these objectives without continuing the area of critical state concern  
14              designation.
- 15          (b) Protecting shoreline and benthic resources, including mangroves, coral reef formations, seagrass beds,  
16              wetlands, fish and wildlife, and their habitat.
- 17          (c) Protecting upland resources, tropical biological communities, freshwater wetlands, native tropical  
18              vegetation (for example, hardwood hammocks and pinelands), dune ridges and beaches, wildlife, and  
19              their habitat.
- 20          (d) Ensuring the maximum well-being of the Florida Keys and its citizens through sound economic  
21              development.
- 22          (e) Limiting the adverse impacts of development on the quality of water throughout the Florida Keys.
- 23          (f) Enhancing natural scenic resources, promoting the aesthetic benefits of the natural environment, and  
24              ensuring that development is compatible with the unique historic character of the Florida Keys.
- 25          (g) Protecting the historical heritage of the Florida Keys.
- 26          (h) Protecting the value, efficiency, cost-effectiveness, and amortized life of existing and proposed major  
27              public investments, including:
- 28                  1. The Florida Keys Aqueduct and water supply facilities;  
29                  2. Sewage collection, treatment, and disposal facilities;  
30                  3. Solid waste treatment, collection, and disposal facilities;  
31                  4. Key West Naval Air Station and other military facilities;  
32                  5. Transportation facilities;  
33                  6. Federal parks, wildlife refuges, and marine sanctuaries;  
34                  7. State parks, recreation facilities, aquatic preserves, and other publicly owned properties;  
35                  8. City electric service and the Florida Keys Electric Co-op; and  
36                  9. Other utilities, as appropriate.
- 37          (i) Protecting and improving water quality by providing for the construction, operation, maintenance,  
38              and replacement of stormwater management facilities; central sewage collection; treatment and  
39              disposal facilities; and the installation and proper operation and maintenance of onsite sewage  
40              treatment and disposal systems.
- 41          (j) Ensuring the improvement of nearshore water quality by requiring the construction and operation of  
42              wastewater management facilities that meet the requirements of ss. 381.0065(4)(l) and 403.086(10),  
43              as applicable, and by directing growth to areas served by central wastewater treatment facilities  
44              through permit allocation systems.
- 45          (k) Limiting the adverse impacts of public investments on the environmental resources of the Florida  
46              Keys.
- 47          (l) Making available adequate affordable housing for all sectors of the population of the Florida Keys.
- 48          (m) Providing adequate alternatives for the protection of public safety and welfare in the event of a  
49              natural or manmade disaster and for a postdisaster reconstruction plan.



1 (n) Protecting the public health, safety, and welfare of the citizens of the Florida Keys and maintaining  
2 the Florida Keys as a unique Florida resource.  
3

4 Pursuant to Section 380.0552(7) Florida Statutes, the proposed amendment is not inconsistent  
5 with the Principles for Guiding Development as a whole.  
6

7 **C. The proposed amendment is consistent with the Part II of Chapter 163, Florida Statute**  
8 **(F.S.). Specifically, the amendment furthers:**  
9

10 163.3161(4), F.S. – It is the intent of this act that local governments have the ability to preserve  
11 and enhance present advantages; *encourage the most appropriate use of land, water, and*  
12 *resources, consistent with the public interest; overcome present handicaps; and deal*  
13 *effectively with future problems that may result from the use and development of land within*  
14 *their jurisdictions.* Through the process of comprehensive planning, it is intended that units  
15 of local government can preserve, promote, protect, and improve the public health, safety,  
16 comfort, good order, appearance, convenience, law enforcement and fire prevention, and  
17 general welfare; facilitate the adequate and efficient provision of transportation, water,  
18 sewerage, schools, parks, recreational facilities, housing, and other requirements and  
19 services; and conserve, develop, utilize, and protect natural resources within their  
20 jurisdictions.  
21

22 163.3161(6), F.S. – It is the intent of this act that adopted comprehensive plans shall have the  
23 legal status set out in this act and that no public or private development shall be permitted  
24 except in conformity with comprehensive plans, or elements or portions thereof, prepared  
25 and adopted in conformity with this act.  
26

27 163.3177(1), F.S. – The comprehensive plan shall provide the principles, guidelines, standards,  
28 and strategies for the orderly and balanced future economic, social, physical, environmental,  
29 and fiscal development of the area that reflects community commitments to implement the  
30 plan and its elements. These principles and strategies shall guide future decisions in a  
31 consistent manner and shall contain programs and activities to ensure comprehensive plans  
32 are implemented. The sections of the comprehensive plan containing the principles and  
33 strategies, generally provided as goals, objectives, and policies, shall describe how the local  
34 government’s programs, activities, and land development regulations will be initiated,  
35 modified, or continued to implement the comprehensive plan in a consistent manner. It is not  
36 the intent of this part to require the inclusion of implementing regulations in the  
37 comprehensive plan but rather to require identification of those programs, activities, and land  
38 development regulations that will be part of the strategy for implementing the comprehensive  
39 plan and the principles that describe how the programs, activities, and land development  
40 regulations will be carried out. The plan shall establish meaningful and predictable standards  
41 for the use and development of land and provide meaningful guidelines for the content of  
42 more detailed land development and use regulations.  
43

44 163.3177 (6)(d) , F.S. – A conservation element for the conservation, use, and protection of  
45 natural resources in the area, including air, water, water recharge areas, wetlands, waterwells,  
46 estuarine marshes, soils, beaches, shores, flood plains, rivers, bays, lakes, harbors, forests,

1 fisheries and wildlife, marine habitat, minerals, and other natural and environmental  
2 resources, including factors that affect energy conservation.

3 1. The following natural resources, where present within the local government's  
4 boundaries, shall be identified and analyzed and existing recreational or conservation  
5 uses, known pollution problems, including hazardous wastes, and the potential for  
6 conservation, recreation, use, or protection shall also be identified:

7 \*\*\*\*\*

8 e. Areas that are the location of recreationally and commercially important fish or  
9 shellfish, wildlife, marine habitats, and vegetative communities, including forests,  
10 indicating known dominant species present and species listed by federal, state, or local  
11 government agencies as endangered, threatened, or species of special concern.

12  
13 2. The element must contain principles, guidelines, and standards for conservation that  
14 provide long-term goals and which:

15 \*\*\*\*\*

16 d. Conserves, appropriately uses, and protects minerals, soils, and native vegetative  
17 communities, including forests, from destruction by development activities.

18 e. Conserves, appropriately uses, and protects fisheries, wildlife, wildlife habitat, and  
19 marine habitat and restricts activities known to adversely affect the survival of  
20 endangered and threatened wildlife.

21 \*\*\*\*\*

22 h. Designates environmentally sensitive lands for protection based *on locally determined*  
23 *criteria* which further the goals and objectives of the conservation element.

24  
25 163.3201, F.S. – Relationship of comprehensive plan to exercise of land development regulatory  
26 authority.—It is the intent of this act that adopted comprehensive plans or elements thereof  
27 shall be implemented, in part, by the adoption and enforcement of appropriate local  
28 regulations on the development of lands and waters within an area. It is the intent of this act  
29 that the adoption and enforcement by a governing body of regulations for the development of  
30 land or the adoption and enforcement by a governing body of a land development code for an  
31 area shall be based on, be related to, and be a means of implementation for an adopted  
32 comprehensive plan as required by this act.

## 33 34 VI. PROCESS

35  
36 Comprehensive Plan Amendments may be proposed by the Board of County Commissioners, the  
37 Planning Commission, the Director of Planning, or the owner or other person having a contractual  
38 interest in property to be affected by a proposed amendment. The Director of Planning shall review  
39 and process applications as they are received and pass them onto the Development Review  
40 Committee and the Planning Commission.

41  
42 The Planning Commission shall hold at least one public hearing. The Planning Commission shall  
43 review the application, the reports and recommendations of the Department of Planning &  
44 Environmental Resources and the Development Review Committee and the testimony given at the  
45 public hearing. The Planning Commission shall submit its recommendations and findings to the  
46 Board of County Commissioners (BOCC). The BOCC holds a public hearing to consider the

1 transmittal of the proposed comprehensive plan amendment, and considers the staff report, staff  
2 recommendation, and the testimony given at the public hearing. The BOCC may or may not  
3 recommend transmittal to the State Land Planning Agency. The amendment is transmitted to State  
4 Land Planning Agency, which then reviews the proposal and issues an Objections,  
5 Recommendations and Comments (ORC) Report. Upon receipt of the ORC report, the County has  
6 180 days to adopt the amendments, adopt the amendments with changes or not adopt the  
7 amendment.  
8

## 9 **VII. STAFF RECOMMENDATION**

10  
11 Staff has found that the proposed amendment is consistent with the direction given by the BOCC at  
12 their January 20, 2016 meeting.  
13

14 Staff recommends approval of the proposed amendment as transmitted to the State through BOCC  
15 Resolution 362-2017.  
16

## 17 **VIII. EXHIBITS**

- 18  
19 1. Duck Key Property Owner’s Association hand-out provided to the BOCC on October 21, 2015,  
20 regarding Duck Key Canal Restoration.  
21 2. Agenda Item I2 and transcript of discussion from January 20, 2016 BOCC meeting regarding  
22 “text amendments to allow maintenance dredging in canals with seagrasses to maintain  
23 navigability.”  
24 3. Planning Commission Resolution P31-17  
25 4. BOCC Resolution 362-2017  
26 5. DEO Objections Recommendations and Comments (ORC) Report received February 27, 2018



The following table summarizes the items in the amendment package:

<i>Amendment Name</i>	<i>Description</i>	<b>PC Hearing Date</b>	<b>BOCC Hearing Dates</b>
<p><b>Ordinance No. 010-2018</b></p> <p>Adopting an ordinance amending the Monroe County Year 2030 Comprehensive Plan;</p>	<p>This amendment amends the Monroe County Year 2030 Comprehensive Plan to include the definition of Perimeter Canal in the glossary; amending Policy 202.4.3 and creating new Policy 202.4.4 to allow maintenance dredging within areas vegetated with seagrass beds or characterized by hardbottom communities within the canals of Duck Key (MM 61) in order to restore navigational access; limited to previously dredged canals; not to exceed depths of greater than minus six (6) feet MLW, provided there is no degradation of water quality or impact on surrounding benthic resources; requiring mitigation for impacts within the dredged area; providing the proposed dredging is in the public interest; as proposed by Demetrio Brid and Duck Key Community Benefit Inc.</p>	<p>June 28, 2017, Continued to August 30, 2017</p>	<p>December 13, 2017; May 16, 2018</p>

Thank you in advance for your timely review of these materials. Should you have any questions about the amendment package, please contact Emily Schemper, Acting Sr. Director of Planning and Environmental Resources at (305) 289-2562 and [schemper-emily@monroecounty-fl.gov](mailto:schemper-emily@monroecounty-fl.gov).

Sincerely,



Emily Schemper  
Senior Director of Planning & Environmental Resources

Enclosures

IA/ia

cc: Comprehensive Plan Review, Department of Agriculture and Consumer Services  
Plan Review, Florida Department of Environmental Protection  
Deena Woodward, Florida Department of State, Bureau of Historic Preservation  
Scott Sanders, Florida Fish and Wildlife Conservation Commission  
Kenneth Jeffries, Florida Department of Transportation  
Isabel Cosio Carballo, South Florida Regional Council  
Terry Manning, South Florida Water Management District  
Ashley Monnier, United States Navy, Boca Chica Naval Air Station  
Planning Department, Village of Islamorada  
Cathy Henninger, City of Key Colony Beach  
Patrick Wright, City of Key West  
George Garrett, City of Marathon  
Norman Anderson, City of Layton  
Board of County Commissioners (w/o enclosures)  
Bob Shillinger, County Attorney (w/o enclosures)  
Roman Gastesi, County Administrator (w/o enclosures)  
Christine Hurley, Assistant County Administrator (w/o enclosures)