



APPLICANT RESPONSE TO SUB AREA POLICY
COUNTY STAFF VERSION 6-1-10

P. 1 of 9 - Policy 107.1.1

We, like you, believe it is important to identify Wisteria's unique characteristics. As such, we offer the following additions to policy 107.1.1:

- a. it is within close proximity to a densely populated urban area;
- b. it is within close proximity to public services and infrastructure;
- c. an adjacent island has been developed with infrastructure extended to meet the needs of the residents of Sunset Key;
- d. it is a manmade spoil island;
- e. it is located adjacent to a deep water **commercial port designated in F.S. Sec. 403.021(9)(b); and** harbor
- f. it does not meet the attributes of an offshore island recommended for prohibition of development according to policy 102.7.2;
- g. **Located outside any Coastal Barrier Resource Area; and**
- h. **Located outside any National Wildlife Refuge; and**
- i. it does not have a documented established bird rookery;
- j. it does have a significant amount of exotic habitat;
- k. it does not include a significant portion of land area characterized as environmentally sensitive as defined by the comprehensive plan, except for dispersed and isolated fragments of environmentally sensitive lands;
- l. it is an artificial land mass that does not support natural native habitat and therefore, restoration of **a previously existing** environmentally **sensitive** land is not possible; and
- m. **Generally meeting the County definition for disturbed lands; and**
- n. while there are certain species that have been observed on the island, it does not provide nesting or foraging habitat for listed wildlife;
- o. **Has access to water at least four (4) feet below mean sea level at low tide.**

P. 4 of 9 - #a

We believe the intent is to comply with the inclusionary housing ordinance. As such we proposed the following alterations:

~~Consistent with~~ **In order to meet the requirements of** Monroe County's inclusionary housing **policy in addition to the five affordable/employee residential dwellings to be constructed on the upland, 23 mooring slips shall be available, if utilized, for occupants meeting the income and employment requirements applicable to employee housing, at a fee not exceeding** requirements, thirty percent (30%) of the mooring slips shall be reserved for workforce housing. The monthly fee for this 30% set aside of mooring slips for workforce housing shall not exceed the monthly fees charged by the Key West Mooring Field or the Marathon Boot Key Harbor Mooring Field. **The use of these 23 mooring slips shall be subject to the final approval of the Florida Department of community Affairs and the Florida Department of Environmental Protection.** ~~If workforce slips are not utilized, owner may lease to market rate users on a monthly basis only so that the spaces are continually available for the workforce if in demand.~~

P 7 of 10 - #9

We believe that the 100+ acres of bay bottom being dedicated to public use and conservation, the preservation and enhancement of the mangrove wetland, together with the public access mooring field and associated upland facilities create a significant public benefit - an additional 2 acres is excessive.

Secondly, to require any fee structure be commensurate with Fort Taylor (a State Park) ignores the public financial support of the park system and the State's sovereign immunity. A private entity has neither of those luxuries.

Notwithstanding, if the County staff is going to impose such a condition it should read:

9. Prior to issuance of a certificate of occupancy for any **upland development other than the non-mooring field related development allowed under paragraph 1 above, the Developer shall set aside no less than two contiguous acres of land dedicated as Open Recreational Space and developed with elevated public restroom facilities. Public access means that the general public is provided convenient pedestrian access over and across privately owned property, subject to reasonable admission fees and such reasonable rules and regulations as the owner of the property may impose governing capacity, conduct, dress, noise, consumption of alcoholic beverages, and daylight hours that the property shall be open.** non-mooring field-related upland development including the restaurant/bar and any development in item #2 above), a minimum 2-acre compact Open Recreation Space for public access shall be reserved and developed with elevated public restroom facilities for daytime use. This set aside of land shall be available for those persons utilizing the public moorings and for the general public. For the purpose of the open recreation space, public access means: general public is provided convenient access over and across privately owned property subject to such reasonable rules and regulations as the owner of the property may impose governing conduct, dress, noise, consumption of alcoholic beverages, daylight hours that the property shall be open, and pedestrian traffic. Open Space means land set aside in its natural state (although free of exotics), free of buildings (except the restrooms) with accessory structures related to pedestrian activity such as walkways, boardwalks, seating, and park-like facilities, including educational kiosks and other features to highlight the history of the island and "The Wisteria" ship, from which the island derives its' name. The Developer may charge a reasonable fee for access to public recreational areas. Reasonable fee per person is defined as a fee equal to or less than the fees charged for entrance to Fort Zachary or any other publically owned and operated public park within the City of Key West. The property owner may restrict or control access to private facilities that are customarily limited to guests or patrons of the transient units and to residential areas customarily reserved for residents. The Developer shall record in the Monroe County public land records a perpetual proprietary public access dedication easement to reserve this portion of the island for public access in perpetuity.