



## COUNCIL AGENDA STATEMENT

Meeting Date: March 14, 2023  
To: Honorable Mayor and Council Members  
From: Brian Shea, Planning Director  
Through: George Garrett, City Manager

**Agenda Items:** **Ordinance 2023-03**, Amending The City Of Marathon’s Comprehensive Plan Modifying Chapter Seven, “Transportation Element,” And Intending To Modify Policies 7-3.1.1 Through 7-3.1.3, “Ensure Consistency With The Plan,” “Protect Environmentally Sensitive Lands,” And “Protect The Airport Hammock Buffer,” Respectively, Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity After The First Hearing By The City Council; And Providing For An Effective Date.

### **RECOMMENDATION:**

The Planning staff recommends approval of the Ordinance modifying policies concerning the consistency of the plan, environmental criteria, and protection of buffers.

**APPLICANT:** City of Marathon

**REQUEST:** Amend City of Marathon Comprehensive Plan in an effort to coordinate regulations to be consistent with updates from Monroe County.

### **ANALYSIS OF COMPREHENSIVE PLAN CHANGE REQUEST:**

#### **Preface**

The current Land Development Regulations provide only brief guidance concerning the review of a proposed Comprehensive Plan Amendment.

Section 102.19 simply states:

Section 102.19. Standards for Review.

When considering an application for a Comprehensive Plan Amendment, the review shall include all standards and criteria of Fla. Stat. ch. 163.

Standards in Chapter 163, F.S. offer some additional guidance, but are limited. Pertinent sections of Chapter 163 promulgate process rather than establishing criteria for the development of a proposed Comprehensive Plan Amendment. Chapter 163.3184, Process for adoption of comprehensive plan or plan amendment, define the sequential process for transmittal, review, and approval of a Comprehensive Plan Amendment. Most relevant to this delineation of process is the definition of “**compliance**” which is recited for review below:

## **163.3184 Process for adoption of comprehensive plan or plan amendment. --**

(1) DEFINITIONS. --As used in this section, the term:

(b) "In compliance" means consistent with the requirements of ss. [163.3177](#), when a local government adopts an educational facilities element, 163.3178, 163.3180, 163.3191, and 163.3245, with the state comprehensive plan, with the appropriate strategic regional policy plan, and with chapter 9J-5, Florida Administrative Code, where such rule is not inconsistent with this part and with the principles for guiding development in designated areas of critical state concern and with part III of chapter 369, where applicable. Thus, leading through an exhaustive process, the State Land Planning Agency must find a Comprehensive Plan or Plan Amendment in compliance in accordance with the above definition. Process as further defined in the section leads from Local Government Transmittal through review by the State Land Planning Agency and other required local and state government bodies to a finding of "in compliance" by the State Land Planning Agency.

Review is contemplated and expected to be completed by such agencies as the South Florida Regional Planning Council, whose responsibility it is to review the proposal for consistency with the Strategic Regional Policy Plan. Such review is not therefore, the responsibility of the local government to determine consistency in this regard and will not be addressed herein. Though referenced in the definition of compliance and elsewhere Chapters 163.3177, 163.3191, 163.3245, and 369 will not be reviewed as a compliance matter. Chapter 163.3177 defines required elements in a comprehensive plan. The City has an approved comprehensive plan which must be assumed to have all required elements. Chapter 163.3191 refers to the required Evaluation and Appraisal Report (EAR); a review of an approved comprehensive plan required of the City every seven years. The City is not subject to an EAR at this juncture and therefore is not relevant as a criterion to the review herein. Finally, Chapter 163.3245 refers to the development of an optional sector plan. This optional element of an approved comprehensive plan was not adopted by the City and therefore will not be used as a criterion for review in this proposed FLUM amendment. Chapter 369 refers to invasive aquatic plant control and the Wekiva River area and similarly will not be the subject of compliance review herein.

Other pertinent review elements leading to a determination of compliance are found in Chapter 163.3178 Coastal management, Chapter 163.3180 Concurrency, and the principals for guiding development in the Florida Keys Area of Critical State Concern. This application for a FLUM amendment will be analyzed against the limited compliance issues found in sections of Chapter 163 F.S. and Chapter 380 F.S. noted immediately above. Relevant sections are provided in EXHIBITS 2, 3, & 4 attached or with website references for your review

### **Compliance Discussion**

Relevant criteria promulgated in Chapters 163 and 380 F.S. can be itemized in bullets as follows based on the critical concerns more specifically identified in the City's comprehensive plan:

- Natural Resource Protection
  - Wetlands
  - Estuaries
  - Living marine resources
  - Beaches / Dunes

- Unique wildlife habitat
- Water Quality
- Historical Resources
- Infrastructure / Concurrency Management
  - Wastewater
  - Stormwater
  - Potable Water
  - Solid Waste
  - Transportation
- Affordable Housing
- Hazard Mitigation
  - CHHA
  - Hurricane Evacuation
- Ports
  - Marina Siting
- Public Use
  - Shoreline use and Access
  - Water dependent and independent activity
- Land Acquisition
  - Conservation
  - CHHA
  - Public Services

These bullet items should be utilized as the focus points for review of the proposed FLUM amendment and for future comprehensive plan amendments.

## **BACKGROUND**

The Monroe County Airport Department submitted an application on June 7, 2022, requesting amendments to the Ports, Aviation and Related Facilities Element of the Monroe County 2030 Comprehensive Plan, to allow airport improvements at the Florida Keys Marathon International

Airport, consistent with the AMP and ALP for the public airport. In reviewing the AMP and ALP, to accomplish operational safety, conform to current Federal Aviation Administration (FAA) standards and to meet forecasts of operational growth over the planning period, the Airport Department anticipates, some of the future airport improvements may impact hammock areas when there is no other viable alternative available. As such, the Airport Department is requesting text amendments to the County Comprehensive Plan Policy 501.1.1, Policy 501.1.2, Policy 501.2.3, Policy 501.3.1, Policy 501.3.3 to accomplish operational safety, conform to current Federal Aviation Administration (FAA) standards and to meet forecasts of operational growth over the planning period. Some of these airport improvements will impact the existing vegetative buffer that exists between Aviation Boulevard and Marathon Airport. The proposed text changes by both the City and the County will allow the airport to accomplish these safety improvements by complying with FAA standards as depicted in the ALP and to ensure future consideration and eligibility to receive federal funding. The public airport projects will continue to comply with all applicable federal and state permit/authorization requirements, including mitigation for environmental impacts.

The improvement of the County public airports is essential to:

- Improve the efficient movement of people and goods to and from the airport facilities,
- Attract visitors by providing multiple options to travel between destinations,
- Reduce vehicular traffic on the roadway network,
- Decrease congestion throughout the surrounding area,
- Facilitate the movement of goods between suppliers, manufacturers, and consumers,
- Provide safe, efficient, secure, and convenient service to citizens, businesses, and visitors,
- Maintain utilization for natural disasters and other emergencies, with the delivery of supplies, medical transport and providing another option for evacuations,
- Contribute to operational efficiency, economic growth, and competitiveness while remaining sensitive to natural environment and requiring mitigation to offset impacts, and
- Achieve and/or maintain compliance with FAA standards.

The County is authorized by Florida's Airport Law of 1945 to exercise regulatory authority over the Key West International Airport and the Florida Keys Marathon International Airport even though the public airport facilities are located within the territorial limits of the cities. Airports in the State of Florida are governed by the Airport Law of 1945, which is codified within Sections 332.01 - 332.12, F.S.

The Florida Keys Marathon International Airport Master Plan Update and Airport Layout Plan were approved by the BOCC on June 17, 2020, and addresses demand driven development of the airport to meet the long-term air transportation needs for the Florida Keys through 2036. The Master Plan is a visionary document that sets out a 'road map' for the sustainable growth of the Airport, it is not an approval for any specific development or project. Projects continue to require any necessary federal, state, and local approvals, including building permits and review of listed species impacts.

Although the MTH Airport is within the limits of the City of Marathon, permitting and development approvals are issued by Monroe County. In an effort to address any concerns that adjacent property owners may express at the reduction of the existing vegetated hammock buffer along Aviation Boulevard, which is specifically cited in the Marathon Comprehensive Plan, County Staff coordinated with City of Marathon Staff requesting input on the proposed amendment. The City of Marathon requested that the proposed mitigation for vegetation removal be revised to reflect the City's mitigation requirements (3 to 1 replacement) and ensure that all invasive exotic vegetation is removed.

## **ANALYSIS**

### Natural Resources

The existing policies pertain specifically to the preservation of the hammock buffer and provide for potential impact to these environmentally sensitive areas. Monroe County coordinated with the City and provided very detailed environmental impact analysis. This is referenced on pages 13 through 21 of the County report. With the addition of the removal of invasive exotics from the hammock buffer, the goals are furthered. It should be noted that a large portion of the area to be cleared is infested with invasives exotics further reducing the environmental impact.

### Historical and Cultural Resources

No Significant Impact would result from the proposed change.

### Infrastructure

No Significant Impact would result from the proposed change.

#### Wastewater infrastructure

No Significant Impact would result from the proposed change.

#### Stormwater infrastructure

No Significant Impact would result from the proposed change.

### Potable Water

No Significant Impact would result from the proposed change.

### Solid Waste

No Significant Impact would result from the proposed change.

### Transportation

There is the Significant positive Impact of achieving further federal aviation requirements as part of the proposed change.

### Affordable Housing

No Significant Impact would result from the proposed change.

### Hazard Mitigation

No Significant Impact would result from the proposed change. However, the recording of conservation easements over the remaining wetland and hammock areas can be credited for points in the FEMA community rating system.

### Coastal High Hazard Areas

No Significant Impact would result from the proposed change.

### Hurricane Evacuation

No Significant Impact would result from the proposed change.

### Ports – Marina Siting

No Significant Impact would result from the proposed change.

## Public Use – Access to Water

No Significant Impact would result from the proposed change.

## Land Acquisition

No Significant Impact would result from the proposed change regarding the CHHA and public services. However, there would be the beneficial impact of conservation easements being recorded on existing wetlands and hammock within the City of Marathon.

## **Alternate Compliance Review Criteria**

Since there are no internal Comprehensive Plan change review criteria available in Chapter 102, Article 6, those that would apply for an LDR text change request (Chapter 102, Article 7) are useful. The basis for the LDR text change criteria is the same as for a Comprehensive Plan change ultimately.

Section 102.26(B) of the Land Development Regulations requires that the following standards and criteria be considered for any proposed text amendment. Each criterion and explanation of relevance to this proposed amendment are listed below:

### **A. The need and justification for the change;**

The efforts to bring the Marathon Airport into compliance have been ongoing. Most recently the City Council approved the economic development strategy, which had sections specifically pertaining to the airport. This document recommended continued coordination with Monroe County to achieve these goals.

### **B. The consistency of the proposed amendment with the Comprehensive Plan; and**

The proposed Ordinance meets three principal areas of concern reflected in the City's Comprehensive Plan. First, the proposed amendment seeks to meet all the necessary requirements that all new development and redevelopment protects the environment. Language already exists regarding reasonable and prudent alternatives; the additional language being proposed further clarifies how that will be achieved. Second, the Ordinance still ensures protection, and furthers the goals of protecting the hammock by removing invasive exotics. Third, the proposed amendment seeks to adopt by reference the updated Florida Keys Marathon International Airport Master Plan and Airport Layout Plan.

### **C. Whether the proposed change shall further the purposes of the LDRs, and other City Codes, regulations and actions designed to implement the Comprehensive Plan.**

The proposed regulations do further the basic goals and premises outlined in the introductory to the City's Comprehensive Plan as follows (highlighting for emphasis):

“With the knowledge that the City needs redevelopment and new development to provide the necessary improvements to guarantee the residents of the City a clean, healthy environment and a sound economy in which to live and enjoy their families, it is the desire and intent of the City

through the GOALS, OBJECTIVES AND POLICIES OF THE ADOPTED COMPREHENSIVE PLAN AND LAND DEVELOPMENT REGULATIONS IMPLEMENTING THE PLAN TO PROTECT OUR CHARACTER, ENVIRONMENT AND VIABILITY THROUGH:

- Protection of the small-town family feel of the community
- Continued utilization of the established mixed-use pattern of the community
- Protection of the heritage of the commercial fishing industry
- Acknowledgement and protection of a character that is unique to the Keys
- Protection of existing and increased affordable housing opportunities
- Implementation of effective surface water management strategies
- Systematic removal of failing and inadequate on-site wastewater disposal systems
- Maintenance and management of central wastewater and stormwater facilities
- Protection and enhancement of sensitive upland, wetland, and submerged land habitat
- Protection for the existing uses, densities, and intensities
- Providing new investment and reinvestment opportunities
- Ensuring new development and redevelopment protects the environment
- Ensuring new and redevelopment compliments and enhances community character
- Implementation of thoughtful, managed growth.”

**CONCLUSION:**

The proposed Amendment is consistent with and furthers the goals of the City of Marathon Comprehensive Plan and Land Development Regulations.

**RECOMMENDATION:**

The Planning staff recommends approval of the Ordinance modifying policies concerning the consistency of the plan, environmental criteria, and protection of buffers.

**Sponsored By:** Garrett  
**Planning Commission Public Hearing Date:** January 23, 2023  
**City Council Public Hearing Date:** February 14, 2023  
tbd  
**Enactment Date:** tbd

**CITY OF MARATHON, FLORIDA  
ORDINANCE 2023-03**

**AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING THE CITY OF MARATHON’S COMPREHENSIVE PLAN MODIFYING CHAPTER SEVEN, “TRANSPORTATION ELEMENT,” AND INTENDING TO MODIFY POLICIES 7-3.1.1 THROUGH 7-3.1.3, “ENSURE CONSISTENCY WITH THE PLAN,” “PROTECT ENVIRONMENTALLY SENSITIVE LANDS,” AND “PROTECT THE AIRPORT HAMMOCK BUFFER,” RESPECTIVELY, PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY AFTER THE FIRST HEARING BY THE CITY COUNCIL; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of Marathon (the "City") has adopted a Comprehensive Plan which has been found to be in compliance by the State Department of Economic Opportunity ("DEO"), pursuant to Chapters 163 and 380, Florida Statutes; and

**WHEREAS**, Subsection 163.3177(6)(b)4 of the Florida Statutes allows for an airport master plan to be adopted and incorporated in the local comprehensive plan; and

**WHEREAS**, the County owns the property that the Florida Keys Marathon International Airport is located on; and

**WHEREAS**, the City wants to coordinate in all efforts related to the airport facilities; and

**WHEREAS**, the City Council finds it necessary, desirable, and proper to adopt the amendments to the Policies of the Comprehensive Plan to reflect consistent language; and

**WHEREAS**, this Ordinance, thus passed at its first reading, shall be transmitted to DEO and sister State Agencies for their coordinated Comprehensive Plan review to obtain and receive the DEO Objections, Recommendations, and Comments (ORC) prior to final adoption,

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA THAT**

~~Strikethrough~~ = deletion      **bold underline** = addition



**SECTION 1.** The above recitals are true, correct, and incorporated herein by this reference.

**SECTION 2.** Amend the Comprehensive Plan, Chapter 7, Transportation Element, “Policies 7-3.1.1 through 7-3.1.3:”

Policy 7-3.1.1                      Ensure Consistency with the Plan

The Marathon Airport expansion shall ~~to~~ be consistent with the needs identified in the updated airport master plan. **The Florida Keys Marathon International Airport Master Plan, dated June 2020, and Airport Layout Plan, dated June 2020, are hereby incorporated by reference.**

Policy 7-3.1.2                      Protect Environmentally Sensitive Lands

Development activities to construct or expand airport or airstrip facilities shall not take place in environmentally sensitive areas, as identified and defined in the Conservation and Coastal Element, unless a viable alternative is not available. Mitigation and restoration shall occur when there is no other alternative than to disturb environmentally sensitive areas.

**If development activities to construct or expand airport or airstrip facilities take place in environmentally sensitive native vegetation areas because there is no other viable alternative available, the activities will be reviewed pursuant to the “Permit Referral Process” for development that occurs within areas designated as “Species Focus Areas (SFAs)” or “Species Buffer Areas (SBAs)” and will be subject to the mitigation standards of the City of Marathon. Removal of qualifying upland native vegetation will require payment to the Monroe County Environmental Land Management and Restoration Fund or replanting if preferred or required by the City of Marathon, in an amount sufficient to replace each removed plant or tree on a 3:1 basis. Additionally, all invasive exotic vegetation must be removed from the proposed development area.**

Policy 7-3.1.3                      Protect the Airport Hammock Buffer

The City shall coordinate with Monroe County to ensure that the existing hammock along Aviation Boulevard, **which is not located within the Federal Aviation Administration (FAA) required Runway Obstacle Free Area (runway clearance requirements) prohibiting above ground objects within 250 feet of the runway centerline,** is maintained and remains as a buffer between the Marathon Airport and the residences to the north. **Monroe County shall maintain coordination mechanisms with the City of Marathon and inform the City on the removal of hammock along Aviation Boulevard required to ensure safe operations at the Florida Keys Marathon International Airport.**

**SECTION 3.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**SECTION 4.**                      The provisions of this Ordinance constitute a “Comprehensive Plan amendment” as defined by State law. Accordingly, the City Clerk is authorized to forward a copy of this Ordinance to the DEO and other state agencies for review and approval pursuant to Sections 380.05(6)

<sup>1</sup>Additions to existing text are shown by underline/red print; deletions are shown as ~~strikethrough~~

and (11), Florida Statutes.

**SECTION 5.** This Ordinance shall be effective immediately upon approval by Department of Economic Opportunity pursuant to Chapters 163 and 380, Florida Statutes.

**ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, this XX<sup>th</sup> day of XXX, 2023.**

**THE CITY OF MARATHON, FLORIDA**

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**Luis Gonzalez, Mayor**

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

**ATTEST:**

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Diane Clavier, City Clerk

**APPROVED AS TO FORM AND LEGALITY FOR THE USE  
AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:**

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Steven Williams, City Attorney