

Sponsored By: Garrett
Planning Commission Public Hearing Date: April 18, 2022
City Council Public Hearing Date: May 10, 2022
August 9, 2022
Enactment Date: August 9, 2022

**CITY OF MARATHON, FLORIDA
ORDINANCE 2022-07**

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING THE CITY OF MARATHON'S COMPREHENSIVE PLAN MODIFYING CHAPTER FOUR, "CONSERVATION AND COASTAL ELEMENT," AND INTENDING TO MODIFY POLICY 4-1.4.2, "MAINTAIN A 50 FOOT BUFFER ADJACENT TO WETLANDS," 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 62-330.010(4) of the Florida Administrative Code adopted by reference the Environmental Resource Permit Applicant Handbook Volume I (General and Environmental), including appendices G, H, and I only; and

WHEREAS, The Florida Department of Environmental Protection ("Department" or "DEP") and Florida's five water management districts ("Districts" or "WMDs") developed this Applicant's Handbook to help persons understand the rules, procedures, standards, and criteria that apply to the environmental resource permit (ERP) program under Part IV of Chapter 373 of the Florida Statutes (F.S.); and

WHEREAS, it is the City's intent to amend the wetland setback criteria to provide consistency with the external agency approval process noted above; and

WHEREAS, the City does not want to unduly constrain construction in the City so long as the proposed construction is consistent with the protection of wetlands; and

WHEREAS, the City Council finds it necessary, desirable, and proper to adopt the amendments to the Goals, Objectives, and Policies of the Comprehensive Plan to reflect changing conditions, pursuant to Sections 163.3191 and 163.3178(2)(f) Florida Statute.; 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 4, Conservation and Coastal Element, “Policy 4-1.4.2:”

Policy 4-1.4.2 Maintain a 50 Foot Buffer Adjacent to Wetlands
The City shall require minimum vegetated setbacks of fifty (50) feet to be maintained as an open space buffer for development occurring adjacent to all types of wetlands except for tidally inundated mangrove fringes or permitted under Objective 4-1.11. If a fifty (50) foot setback results in less than 2,000 square feet of principal structure footprint of reasonable configuration then the setback may be reduced to allow for 2,000 square feet of principal structure footprint of reasonable configuration, provided the setback is not reduced to less than twenty-five (25) feet. ~~On properties classified as scarified adjacent to wetlands,~~ The wetland setback may be reduced to an average of twenty-five (25) feet, but no less than fifteen (15) feet, without regard to buildable area if the entire setback area is planted and maintained in native vegetation with a site-suitable stormwater management plan, and thereafter placed under conservation easement. The wetland setback reduction shall not apply to wetlands used by bald eagles for nesting, or listed species for nesting, denning, or critically important feeding habitat. The mere fact that a species is listed does not imply that all of its feeding habitat is critically important. The wetland setback required by this subsection shall not apply to mangrove or wetland fringes occurring along man-made canals, channels, or basins. Wetlands or other surface waters shall not be filled to achieve the setback buffer requirement. ‘Development’ shall include all activities as currently defined in the F.S. 380.05, hereby incorporated by reference. §163.3177(6)(d)2. j. F.S.

SECTION 3. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause of 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 DCA and other state agencies for review and approval pursuant to Sections 380.05(6) 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 9TH DAY OF AUGUST, 2022.

THE CITY OF MARATHON, FLORIDA



John Bartus, Mayor

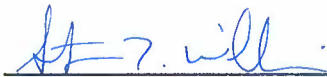
AYES: Zieg, Cook, Still, Gonzalez, Bartus
NOES: None
ABSENT: None
ABSTAIN: None

ATTEST:




Diane Clavier, City Clerk

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



Steven Williams, City Attorney

Ron DeSantis
GOVERNOR



Dane Eagle
SECRETARY

September 27, 2022

The Honorable John Bartus
Mayor, City of Marathon
9805 Overseas Highway
Marathon, Florida 33050

Dear Mayor Bartus:

The Department of Economic Opportunity (“Department”) has completed its review of the comprehensive plan amendment for City of Marathon adopted by Ordinance No. 2022-07 on August 9, 2022 (Amendment No. 22-04ACSC), which was received and determined complete on August 15, 2022. We have reviewed the amendment in accordance with the state coordinated review process set forth in Sections 163.3184(2) and (4), Florida Statutes (F.S.), and have determined that the adopted amendment meets the requirements of Chapter 163, Part II, F.S., for compliance, as defined in Section 163.3184(1)(b), F.S. The Department is therefore issuing a Notice of Intent to find the comprehensive plan amendment “In Compliance.” A copy of the Notice of Intent is enclosed and will be posted on the Department’s Internet website. You may access the Notice of Intent at: <http://floridajobs.force.com/orc>.

The Department’s Notice of Intent to find a plan amendment “In Compliance” is deemed to be a final order if no timely petition challenging the amendment has been filed. If this plan amendment is challenged by an affected person, the amendment will not become effective until the Department or the Administration Commission enters a final order determining the amendment to be “In Compliance.”

Florida Department of Economic Opportunity | Caldwell Building | 107 E. Madison Street | Tallahassee, FL 32399
(850) 245.7105 | www.FloridaJobs.org | [www.Twitter.com/FLDEO](https://twitter.com/FLDEO) | www.Facebook.com/FLDEO

An equal opportunity employer/program. Auxiliary aids and service are available upon request to individuals with disabilities. All voice telephone numbers on this document may be reached by persons using TTY/TTD equipment via the Florida Relay Service at 711.

If you have any questions concerning this review, please contact Anthony Milordis, Planning Analyst, by telephone at (850) 717-8483 or by email at anthony.milordis@deo.myflorida.com.

Sincerely,

A handwritten signature in cursive script that reads "Scott Rogers".

Scott Rogers, Regional Planning Administrator
Bureau of Community Planning and Growth

SR/am

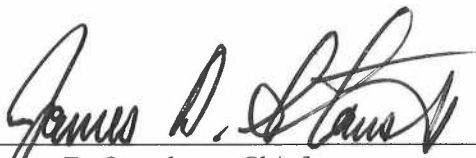
Enclosure: Notice of Intent

cc: Isabel Carballo, Executive Director, South Florida Regional Planning Council
Brian, Shea, Planning Director, City of Marathon

STATE OF FLORIDA
DEPARTMENT OF ECONOMIC OPPORTUNITY
THE STATE LAND PLANNING AGENCY
NOTICE OF INTENT TO FIND THE
CITY OF MARATHON
COMPREHENSIVE PLAN AMENDMENT
IN COMPLIANCE
DOCKET NO. 22-04ACSC-NOI-4406-(A)-(I)

The Department gives notice of its intent to find the Amendment to the Comprehensive Plan for the City of Marathon, adopted by Ordinance No. 2022-07 on August 9, 2022, IN COMPLIANCE, pursuant to Section 163.3184(4), F.S.

If a timely petition challenging the Amendment is not filed within thirty (30) days after the local government adopted the Amendment, the Amendment become effective upon the posting of this Notice of Intent on the Department's Internet Website. If a timely petition is filed, the Amendment does not become effective until the Department or the Administration Commission enters a final order determining that the Amendment is in compliance.



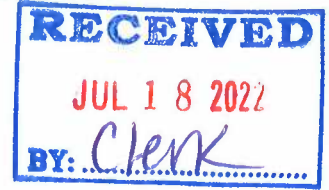
James D. Stansbury, Chief
Bureau of Community Planning and Growth
Division of Community Development
Department of Economic Opportunity
107 East Madison Street
Tallahassee, Florida 32399

22-07

Ron DeSantis
GOVERNOR



Dane Eagle
SECRETARY



July 15, 2022

The Honorable John Bartus, Mayor
City of Marathon
9805 Overseas Highway
Marathon, Florida 3305

Dear Mayor Bartus:

The Department of Economic Opportunity (“Department”) has completed its review of the proposed comprehensive plan amendment for The City of Marathon (Amendment No. 22-04ACSC), which was received and determined complete on May 20, 2022. We have reviewed the proposed amendment in accordance with the state coordinated review process set forth in Sections 163.3184(2) and (4), Florida Statutes (F.S.), for compliance with Chapter 163, Part II, F.S. The Department does not identify any objections or comments to the proposed amendment and this letter serves as the Objections, Recommendations and Comments Report. Review comments received by the Department from the appropriate reviewing agencies, if any, are enclosed.

The City should act by choosing to adopt, adopt with changes, or not adopt the proposed amendment. For your assistance, we have enclosed the procedures for final adoption and transmittal of the comprehensive plan amendment. **The second public hearing**, which shall be a hearing on whether to adopt one or more comprehensive plan amendments, **must be held within 180 days** of your receipt of the Department’s attached report, or the amendment will be deemed withdrawn unless extended by agreement with notice to the Department and any affected party that provided comment on the amendment pursuant to Section 163.3184(4)(e)1., F.S.

If you have any questions related to this review, please contact Don Arellano, Planning Analyst, by telephone at (850) 717-8452 or by email at Don.Arellano@deo.myflorida.com.

Sincerely,

James D. Stansbury, Bureau Chief
Bureau of Community Planning and Growth

JDS/da
Enclosure: Procedures for Adoption
Agency Comments

cc: : Isabel Carballo, South Florida Regional Planning Council Executive Director isabelc@sfrpc.com
Brian Shea, City of Marathon Planning Director sheab@ci.marathon.fl.us

Florida Department of Economic Opportunity | Caldwell Building | 107 E. Madison Street | Tallahassee, FL 32399
(850) 245.7105 | www.FloridaJobs.org | www.Twitter.com/FLDEO | www.Facebook.com/FLDEO

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SUBMITTAL OF ADOPTED COMPREHENSIVE PLAN AMENDMENTS

FOR STATE COORDINATED REVIEW

Section 163.3184(4), Florida Statutes

NUMBER OF COPIES TO BE SUBMITTED: Please submit electronically using the Department’s electronic amendment submittal portal “**Comprehensive Plan and Amendment Upload**” (<https://floridajobs.secure.force.com/cpl/>) or submit three complete copies of all comprehensive plan materials, of which one complete paper copy and two complete electronic copies on CD ROM in Portable Document Format (PDF) to the State Land Planning Agency and one copy to each entity below that provided timely comments to the local government: the appropriate Regional Planning Council; Water Management District; Department of Transportation; Department of Environmental Protection; Department of State; the appropriate county (municipal amendments only); the Florida Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services (county plan amendments only); and the Department of Education (amendments relating to public schools); and for certain local governments, the appropriate military installation and any other local government or governmental agency that has filed a written request.

SUBMITTAL LETTER: Please include the following information in the cover letter transmitting the adopted amendment:

_____ Department of Economic Opportunity identification number for adopted amendment package;

_____ Summary description of the adoption package, including any amendments proposed but not adopted;

_____ Ordinance number and adoption date;

_____ Certification that the adopted amendment(s) has been submitted to all parties that provided timely comments to the local government;

_____ Name, title, address, telephone, FAX number and e-mail address of local government contact;

_____ Letter signed by the chief elected official or the person designated by the local government.

ADOPTION AMENDMENT PACKAGE: Please include the following information in the amendment package:

_____ In the case of text amendments, changes should be shown in strike-through/underline format;

_____ In the case of future land use map amendment, an adopted future land use map, **in color format**, clearly depicting the parcel, its existing future land use designation, and its adopted designation;

_____ A copy of any data and analyses the local government deems appropriate.

_____ Copy of executed ordinance adopting the comprehensive plan amendment(s);

Suggested effective date language for the adoption ordinance for state coordinated review:

"The effective date of this plan amendment, if the amendment is not timely challenged, shall be the date the state land planning agency posts a notice of intent determining that this amendment is in compliance. If the amendment is timely challenged, or if the state land planning agency issues a notice of intent determining that this amendment is not in compliance, this amendment shall become effective on the date the state land planning agency or the Administration Commission enters a final order determining this adopted amendment to be in compliance."

_____ List of additional changes made in the adopted amendment that the Department of Economic Opportunity did not previously review;

_____ List of findings of the local governing body, if any, that were not included in the ordinance and which provided the basis of the adoption or determination not to adopt the proposed amendment;

_____ Statement indicating the relationship of the additional changes not previously reviewed by the Department of Economic Opportunity to the ORC report from the Department of Economic Opportunity.

From: [Plan Review](#)
To: [Eubanks, Ray](#); [DCPexternalagencycomments](#)
Cc: [Plan Review](#)
Subject: [EXTERNAL] - Marathon 22-04ACSC Proposed
Date: Wednesday, June 15, 2022 5:17:00 PM
Attachments: [image002.png](#)

To: Ray Eubanks, DEO Plan Review Administrator

Re: Marathon 22-04ACSC – State Coordinated Review of Proposed Comprehensive Plan Amendment

The Office of Intergovernmental Programs of the Florida Department of Environmental Protection (Department) has reviewed the above-referenced amendment package under the provisions of Chapter 163, Florida Statutes. The Department conducted a detailed review that focused on potential adverse impacts to important state resources and facilities, specifically: air and water pollution; wetlands and other surface waters of the state; federal and state-owned lands and interest in lands, including state parks, greenways and trails, conservation easements; solid waste; and water and wastewater treatment.

Based on our review of the submitted amendment package, the Department has found no provision that, if adopted, would result in adverse impacts to important state resources subject to the Department's jurisdiction.

Please submit all future amendments by email to plan.review@floridadep.gov. If your submittal is too large to send via email or if you need other assistance, contact Lindsay Weaver at (850) 717-9037.



From: [Manning, Terese](#)
To: [DCPexternalagencycomments](#)
Cc: [Brian Shea \(sheab@ci.marathon.fl.us\)](#); [Rogers, Scott](#); [Isabel Cosio Carballo \(isabelc@sfrpc.com\)](#); [Kathe Lerch](#); [Christine Hurley](#)
Subject: [EXTERNAL] - Marathon, Comments on Proposed Comprehensive Plan Amendments DEO #22-4ACSC, #22-5ACSC, and #22-4ACSC
Date: Thursday, June 9, 2022 10:09:37 AM

Dear Mr. Eubanks:

The South Florida Water Management District (District) has completed its review of the proposed amendment packages #22-4ACSC, #22-5ACSC, and #22-6ACSC, submitted by the City of Marathon (City). There appear to be no regionally significant water resource issues; therefore, the District forwards no comments on the proposed amendments.

The District requests that the City forward a copy of the adopted amendments to the District at the following email mailbox address: SFLOCALGOVPLAN@sfwmd.gov. Please contact me if you have any questions or need additional information.

Sincerely,

Ms. Terry Manning, Senior Policy and Planning Analyst
South Florida Water Management District
Water Supply Implementation Unit
3301 Gun Club Road
West Palm Beach, FL 33406
Phone: 561-682-6779
Fax: 561-681-6264
E-Mail: tmanning@sfwmd.gov



Florida Department of Transportation

RON DESANTIS
GOVERNOR

1000 NW 111th Avenue
Miami, FL 33172

JARED W. PERDUE, P.E.
SECRETARY

May 24, 2022

Mr. Brian Shea
Director of Planning
City of Marathon
9805 Overseas Highway
Marathon, Florida 33050

**Subject: Comments for the City of Marathon Comprehensive Plan Amendment
FDEO #22-04ACSC**

Dear Mr. Shea:

Pursuant to Section 163.3184(3), Florida Statutes (F.S.), in its role as a reviewing agency as identified in Section 163.3184(1)(c), F.S., the Florida Department of Transportation, District Six, reviewed the proposed amendment to the City of Marathon's comprehensive plan. The intent of the proposed amendment is to clarify a Conservation and Coastal Element's policy regarding the application of a 50-foot buffer adjacent to wetlands.

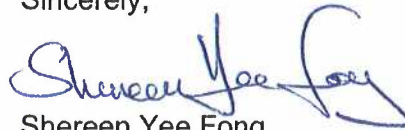
The District reviewed the amendment package per Chapter 163 Florida Statutes and found the proposed amendment would not adversely impact transportation resources and facilities of state importance.

In addition, the District's number one priority is safety for all road users with an ultimate goal of zero fatalities and serious injuries. It is recommended that the City of Marathon continue to identify and address the safety needs of all modes of travel, including public transportation. The District encourages the City to include pedestrian and bicycle facilities to promote a safe walkable and connected community consistent with ss. 163.3177, Florida Statutes.

Mr. Brian Shea
May 24, 2022
Page 2

Thank you for coordinating on the review of this proposed amendments with FDOT. If you have any questions, please do not hesitate to contact me by email at shereen.yeefong@dot.state.fl.us or at 305-470-5393.

Sincerely,

A handwritten signature in blue ink that reads "Shereen Yee Fong". The signature is fluid and cursive, with the first name "Shereen" being the most prominent.

Shereen Yee Fong
Transportation Planner IV

Cc: Daniel Iglesias, P.E., Florida Department of Transportation, District 6
Dat Huynh, P.E., Florida Department of Transportation, District 6
Kenneth Jeffries, Florida Department of Transportation, District 6
Ray Eubanks, Department of Economic Opportunity
Isabel Cosio Carballo, South Florida Regional Planning Council
Kathe Lerch, South Florida Regional Planning Council

From: [Runion, Morgan](#)
To: sheab@ci.marathon.fl.us; [DCPexternalagencycomments](#)
Subject: [EXTERNAL] - City of Marathon 22-04ACSC
Date: Monday, May 23, 2022 2:21:52 PM

Dear Mr. Shea,

The Office of Educational Facilities within the Florida Department of Education has reviewed the City of Marathon's 22-04ACSC proposed comprehensive plan amendment in accordance with sections 163.3180 and 163.3184, Florida Statutes. Based on review of the submitted materials, staff have no comments on the proposed amendment. If you have any questions or need additional information, please contact me.

Sincerely,

Morgan Runion, AICP
Office of Educational Facilities
Florida Department of Education