



STATE OF FLORIDA

DEPARTMENT OF COMMUNITY AFFAIRS

"Dedicated to making Florida a better place to call home"

JEB BUSH
Governor

THADDEUS L. COHEN, AIA
Secretary

cc - Council ✓
cc - Mike ✓
cc - Clerk ✓
cc - Gail ✓

Received

MAY 09 2005

May 5, 2005

City Clerk

The Honorable John Bartus
Mayor, City of Marathon
10045-55 Overseas Highway
Marathon, Florida 33050

Dear Mayor Bartus:

The Department of Community Affairs (Department) has completed its review of the Comprehensive Plan Amendment (DCA No. 05R1) adopted by Ordinance No. 2003-11 on July 13 2004, and the remedial amendment adopted by Ordinance No. 2005-07 on March 8, 2005, for the City of Marathon and determined that it meets the requirements of Chapter 163, Part II, Florida Statutes (F.S.), for compliance, as defined in Subsection 163.3184(1)(b), F.S. The Department is issuing a Cumulative Notice of Intent to find the plan amendment In Compliance. The Notice of Intent has been sent to the *Key West Citizen* for publication on May 6, 2005.

The Department's notice of intent to find a plan amendment in compliance shall be deemed to be a final order if no timely petition challenging the amendment is filed. Any affected person may file a petition with the agency within 21 days after the publication of the notice of intent pursuant to Section 163.3184(9), F.S. No development orders, or permits for a development, dependent on the amendment may be issued or commence before the plan amendment takes effect. Please be advised that Section 163.3184(8)(c)2, F.S., requires a local government that has an Internet site to post a copy of the Department's Notice of Intent on the site within 5 days after receipt of the mailed copy of the agency's notice of intent.

Please note that a copy of the adopted City of Marathon Comprehensive Plan Amendment, and the Notice of Intent must be available for public inspection Monday through Friday, except for legal holidays, during normal business hours, at the City of Marathon, Planning Department, 10045-55 Overseas Highway, Marathon, Florida 33050.

2555 SHUMARD OAK BOULEVARD • TALLAHASSEE, FLORIDA 32399-2100
Phone: 850.488.8466/Suncom 278.8466 FAX: 850.921.0781/Suncom 291.0781
Internet address: <http://www.dca.state.fl.us>

CRITICAL STATE CONCERN FIELD OFFICE
2796 Overseas Highway, Suite 212
Marathon, FL 33050-2227
(305) 289-2402

COMMUNITY PLANNING
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
(850) 488-2356

EMERGENCY MANAGEMENT
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
(850) 413-9969

HOUSING & COMMUNITY DEVELOPMENT
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
(850) 488-7956

The Honorable John Bartus

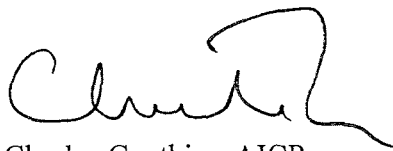
May 5, 2005

Page 2

If this in compliance determination is challenged by an affected person, you will have the option of mediation pursuant to Subsection 163.3189(3)(a), F.S. If you choose to attempt to resolve this matter through mediation, you must file the request for mediation with the administrative law judge assigned by the Division of Administrative Hearings. The choice of mediation will not affect the right of any party to an administrative hearing.

If you have any questions, please contact Roger Wilburn, Principal Planner, or Rebecca Jetton, ACSC Administrator, at (850) 922-1766.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Charles Gauthier', with a stylized flourish at the end.

Charles Gauthier, AICP
Chief of Comprehensive Planning

CG/rjs

Enclosure: Cumulative Notice of Intent

cc: Mr. Mike Puto, City Manager, City of Marathon
Ms. Carolyn A. Dekle, Executive Director, South Florida Regional Planning Council

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS
CUMULATIVE NOTICE OF INTENT TO FIND THE
CITY OF MARATHON COMPREHENSIVE PLAN
AND REMEDIAL COMPREHENSIVE PLAN AMENDMENT
IN COMPLIANCE
DOCKET NO. 05-R1-NOI-4406-(A)-(I)

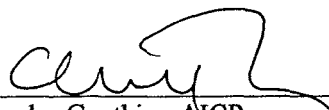
The Department issues this cumulative notice of intent to find the City of Marathon Comprehensive Plan adopted by Ordinance No. 2003-11 on July 13, 2004, and the remedial amendment adopted by Ordinance No. 2005-07 on March 8, 2005, IN COMPLIANCE, pursuant to Sections 163.3184, 163.3187, 163.3189, 380.05 and 380.0552, F.S.

The adopted City of Marathon Comprehensive Plan, the Plan Amendment and the Department's Objections, Recommendations, and Comments Report, (if any), are available for public inspection Monday through Friday, except for legal holidays, during normal business hours, at the City of Marathon Planning Department, 10045-55 Overseas Highway, Marathon, Florida 33050.

Any affected person, as defined in Section 163.3184, F.S., has a right to petition for an administrative hearing to challenge the proposed agency determination that the Remedial Amendments are In Compliance, as defined in Subsection 163.3184(1), F.S., and are consistent with the principles for guiding development in the Florida Keys Area of Critical State Concern. The petition must be filed within twenty-one (21) days after publication of this notice, and must include all of the information and contents described in Uniform Rule 28-106.201, F.A.C. The petition must be filed with the Agency Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, and a copy mailed or delivered to the local government. Failure to timely file a petition shall constitute a waiver of any right to request an administrative proceeding as a petitioner under Sections 120.569 and 120.57, F.S. If a petition is filed, the purpose of the administrative hearing will be to present evidence and testimony and forward a recommended order to the Department. If no petition is filed, this Notice of Intent shall become final agency action.

If a petition is filed, other affected persons may petition for leave to intervene in the proceeding. A petition for intervention must be filed at least twenty (20) days before the final hearing and must include all of the information and contents described in Uniform Rule 28-106.205, F.A.C. A petition for leave to intervene shall be filed at the Division of Administrative Hearings, Department of Management Services, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060. Failure to petition to intervene within the allowed time frame constitutes a waiver of any right such a person has to request a hearing under Sections 120.569 and 120.57, F.S., or to participate in the administrative hearing.

After an administrative hearing petition is timely filed, mediation is available pursuant to Section 163.3189(3)(a), F.S., to any affected person who is made a party to the proceeding by filing that request with the administrative law judge assigned by the Division of Administrative Hearings. The choice of mediation shall not affect a party's right to an administrative hearing.


Charles Gauthier, AICP
Chief of Comprehensive Planning
Division of Community Planning
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100



CITY OF MARATHON, FLORIDA

10045-55 Overseas Highway, Marathon, Florida 33050

Phone: (305) 743-0033 Fax: (305) 743-3667

5 April 2005

Ray Eubanks, Community Program Administrator
Division of Community Planning
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

Subject: City of Marathon Comprehensive Plan
Stipulated Settlement Agreement

Dear Mr. Eubanks:

Pursuant to Florida Statute 163.3184, enclosed please find copies of the City of Marathon Comprehensive Plan and Stipulated Settlement Agreement approved on March 8, 2005 by the Marathon City Council by Ordinance 2005-07 and Resolution 2005-022, for transmittal to the Department of Community Affairs.

Also included for your review are the following items:

- Affidavit of Publication in the *Key West Citizen* of the Legal Notice for Ordinance 2005-07 and Resolution 2005-022
- Certified copies of Ordinance 2005-07 and Resolution 2005-022
- Copy of the NOI indicating changes made to comply with NOI
- 3 copies of the Comprehensive Data, Inventory and Analysis and the maps associated with the Plan
- 1 set of large format FLUM maps as requested by the Department
- Copy of the Citizen Courtesy Information List
- Five original copies of the signed Stipulated Settlement Agreement (four copies to be returned to the City to be distributed to the other parties) with required attachments

The City of Marathon contact person is:

Mike Puto, City Manager
City of Marathon
10045-55 Overseas Highway
Marathon, Florida 33050
(305)289-4130 (phone)
(305)289-4123 (fax)
putonm@ci.marathon.fl.us

CITY OF MARATHON, FLORIDA

10045-55 Overseas Highway, Marathon, Florida 33050

Phone: (305) 743-0033 Fax: (305) 743-3667

The paper the Department will publish the required Notice of Intent is the *Key West Citizen*. The contact person at the *Key West Citizen* is:

Mary Beth Canitano

Advertising Coordinator/Legal Advertising

Phone (305) 292-7777 ext. 219

Fax (305) 294-0768

E-mail: mcanitano@keysnews.com or legals@keysnews.com

Copies of the Plan were sent to the following agencies:

Department of Education

Stanley Goldstein

Turlington Building, Room 1054

Tallahassee, Florida 32399-0400

Department of Environmental Protection

Lindy McDowell, Environmental Manager

Office of Intergovernmental Programs

39000 Commonwealth Boulevard, Mail Station 47

Tallahassee, Florida 32399-3000

Department of State

Susan Harp, Historic Preservation Planner

Bureau of Historic Preservation

500 South Bronough Street

Tallahassee, Florida 32399-0250

Florida Department of Transportation, District Six

Gary Donn, Director of Planning and Public Transportation

602 South Miami Avenue

Miami, Florida 33130

South Florida Regional Planning Council

Robert J. Daniels, Principal Planner

3440 Hollywood Boulevard

Hollywood, Florida 33021

South Florida Water Management District

P. K. Sharma, Lead Planner

PO Box 24680

West Palm Beach, Florida 33416-4680

CITY OF MARATHON, FLORIDA

10045-55 Overseas Highway, Marathon, Florida 33050

Phone: (305) 743-0033 Fax: (305) 743-3667

Monroe County Growth Management
Tim McGarry, Director
2798 Overseas Highway, Suite 410
Marathon, Florida 33050

Should you have any questions, or require any additional information, please feel free to contact me.

Sincerely,



Mike Puto
City Manager

Sponsored by: Puto
Introduction Date: March 8, 2003
Public Hearing Dates: March 8, 2003
Enactment Date: March 8, 2003

**CITY OF MARATHON, FLORIDA
ORDINANCE 2005-07**

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING THE CITY'S COMPREHENSIVE PLAN, AS ADOPTED BY CITY ORDINANCE 2003-11, TO IMPLEMENT A COMPLIANCE AGREEMENT BETWEEN THE DEPARTMENT OF COMMUNITY AFFAIRS, SOUTH FLORIDA REGIONAL PLANNING COUNCIL AND COCO PLUM BEACH PROPERTY OWNERS ASSOCIATION, INC.; DIRECTING CITY STAFF TO TAKE ALL ACTIONS NECESSARY TO IMPLEMENT THE REMEDIAL PLAN AMENDMENTS SPECIFIED IN THE COMPLIANCE AGREEMENT AND CONTAINED HEREIN; REPLACING THE PREVIOUSLY APPLICABLE MONROE COUNTY COMPREHENSIVE PLAN

WHEREAS, the City of Marathon, Florida (the "City") is a local government with the duty to adopt a comprehensive plan that is "in-compliance"; and

WHEREAS, the City adopted its comprehensive plan (the "Plan") by Ordinance 2003-11 on July 13, 2004; and

WHEREAS, the State Department of Community Affairs (the "Department") issued its Statement and Notice of Intent (the "NOI") regarding the Plan on September 8, 2004, finding the Plan "not in-compliance"; and

WHEREAS, as set forth in the NOI, the Department contends that the Plan is "not in-compliance" because the City did not amend the Plan, as required to implement recommended planning actions identified in the Department's objections, recommendations and comments (ORC) that would correct identified plan deficiencies or issues; and

WHEREAS, pursuant to Section 163.3184(10), *Florida Statutes*, the Department initiated a formal administrative proceeding challenging the Plan; and

WHEREAS, the South Florida Regional Planning Council and Coco Plum Beach Property Owners Association, Inc., were granted leave to intervene in the administrative proceeding; and

WHEREAS, the City disputes the allegations of the NOI regarding the Plan; and

WHEREAS, the parties have entered into a stipulated compliance agreement to resolve all of the issues identified in the NOI; and

WHEREAS, the agreed to compliance agreement requires the City to adopt a remedial plan amendment (the "Amendment"), which upon adoption, the Department will issue a cumulative notice of intent addressing both the Amendment and the Plan, and it will also file a request to relinquish jurisdiction to the Department for the dismissal of the administrative proceeding or for realignment of the parties.

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

Section 1. The above recitals are true and correct and incorporated herein.

Section 2. The Plan, which was adopted by City Ordinance 2003-11 is amended as provided for in Exhibit "A" attached hereto.

Section 3. The City Clerk shall timely transmit the Amendment and all data and analysis to the State of Florida Department of Community Affairs in its capacity as the State Land Planning Agency (the "Department"), as required by Chapters 163 and 380, *Florida Statutes*.

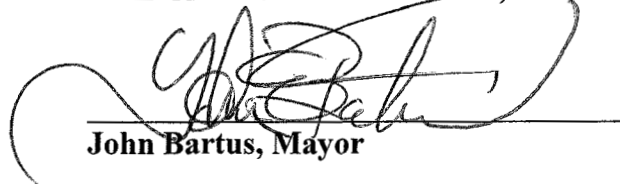
Section 4. Upon its effective date, the amended Plan shall replace the Monroe County Comprehensive Plan, previously applicable to the City pursuant to Sections 163.3167(4), 380.05(10) and 380.0552(9), *Florida Statutes*, and the City Charter, to the fullest extent allowed by law.

Section 5. 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 6. This Ordinance shall be effective immediately upon adoption by the City Council, except that the effective date of the amended Plan approved by this Ordinance shall be the date a final order is issued by the Department or Administration Commission finding the amended Plan in compliance in accordance with Section 163.3184, *Florida Statutes*, whichever occurs earlier. No development orders, development permits, or land uses depend on the amended Plan may be issued or commenced before the amended Plan has become effective. The Department's notice of intent to find the amended Plan in compliance shall be deemed to be a final order if no timely petition challenging the amended Plan is filed.

**ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON,
FLORIDA, this 8th day of March, 2005.**

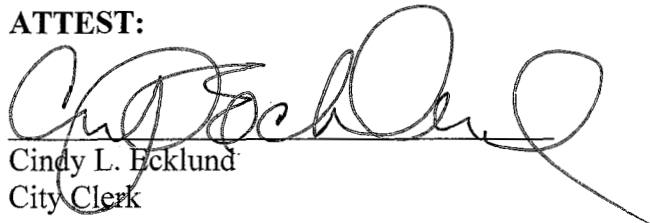
THE CITY OF MARATHON, FLORIDA



John Bartus, Mayor

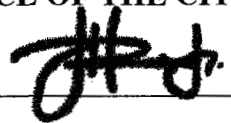
AYES: Mearns, Pinkus, Miller, Bull, Bartus
NOES: None
ABSENT: None
ASTAIN: None

ATTEST:



Cindy L. Ecklund
City Clerk

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



City Attorney