

Sponsored By: Hernstadt
Planning Commission Public Hearing Date: June 20, 2011
City Council Public Hearing Date: June 28, 2011
July 12, 2011
Enactment Date: July 12, 2011

**CITY OF MARATHON, FLORIDA
ORDINANCE 2011-07**

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING POLICIES 1-3.5.5, AND 1-3.5.9, AND ADDING POLICY 4-1.5.4 TO THE CITY'S COMPREHENSIVE PLAN IN RESPONSE TO THE OBJECTIONS, RECOMMENDATIONS, AND COMMENTS REPORT FROM THE DEPARTMENT OF COMMUNITY AFFAIRS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF COMMUNITY AFFAIRS; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF COMMUNITY AFFAIRS

WHEREAS, the City of Marathon (the "City") adopted Ordinance 2010-11 amending the commercial and residential building permit allocation process in the City's adopted Comprehensive Plan to limit the number of allocations adversely impacting environmentally sensitive lands (the "Ordinance"), and forwarded the Ordinance to the State Department of Community Affairs (the "DCA") pursuant to Chapter 163, Florida Statutes, for review and comment; and

WHEREAS, DCA issued its Objections, Recommendations and Comments Report, wherein it requested the City revise the Ordinance to resolve internal inconsistencies in the Comprehensive Plan; and

WHEREAS, pursuant to Chapter 163, *Florida Statutes*, and Sections 101.02 and 102.22 of the Code, the Planning Commission sitting as the Local Planning Agency publicly considered the amendments requested by the DCA on October 18, 2010 at a duly noticed public hearing, and recommends approval of the proposed amendments to the City Council; and

WHEREAS, the City Council finds that approval of the proposed amendments are consistent with the South Florida Regional Plan, the State Plan, Chapter 163, *Florida Statutes*, the principles for guiding development in the Florida Keys Area of Critical State Concern, the goals, objectives, and policies of the City's Comprehensive Plan, Chapter 102, Article 6 of the Marathon Code, and promotes and protects the health, safety and welfare of the residents of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA THAT:¹

^{1/} Additions to existing text are shown by underline, changes to existing text on second reading are shown by double underline, and deletions are shown as ~~strikethrough~~.

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

Section 2. Policies 1.3.5.3 and 1.3.5.9 of the City of Marathon Comprehensive Plan are hereby amended to read as follows:

Policy 1-3.5.3 Residential Building Permit Allocation System (RBPAS)

By December 2005 the City shall adopt Land Development Regulations that establishes a RBPAS and ensure that all environmental impacts have been mitigated or an equivalent amount of land acquisition funds donated, and ensure that the proposed development is consistent with all other applicable regulations. In no case shall more than one (1) BPAS allocation per year be issued for properties which are in part or whole designated as Hardwood Hammock, Palm Hammock, Cactus Hammock, or Beach/Berm on the City of Marathon Existing Conditions Maps or as determined by the City Biologist or private habitat survey. Donations in lieu of land dedication shall be based on an average of the appraised value of Conservation (C) land in the City. The weighting categories are hereby established as guidelines for developing the specific point values in Land Development Regulations:

Policy 1-3.5.9 Commercial Building Permit Allocation System (CBPAS)

By December 2005 the City shall adopt Land Development Regulations that establishes a CBPAS and ensure that all environmental impacts have been mitigated or an equivalent amount of land acquisition funds donated, and ensure that the proposed development is consistent with all other applicable regulations. In no case shall more than one (1) BPAS allocation per year be issued for properties which are in part or whole designated as ~~medium or high quality~~ Hardwood Hammock, Palm Hammock, Cactus Hammock, or Beach/Berm on the City of Marathon Existing Conditions Maps or as determined by the City Biologist or private habitat survey. Donations in lieu of land dedication shall be based on an average of the appraised value of Conservation (C) land in the City. The weighting categories are hereby established as guidelines for developing the specific point values in Land Development Regulations:

Section 3. Policy 4-1.5.4 of the City of Marathon Comprehensive Plan is hereby created to read as follows:

Policy 4-1.5.4 Limits to Hammock BPAS Allocation

In no case shall more than one (1) BPAS allocation per year be issued for properties which are in part or whole designated as Hardwood Hammock, Palm Hammock, Cactus Hammock, or Beach/Berm on the City of Marathon Existing Conditions Maps or as determined by the City Biologist or private habitat survey.

Section 4. 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.

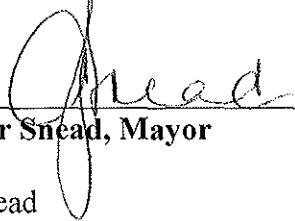
Section 5. The provisions of this Ordinance constitute a "land development regulation" as defined by State law. Accordingly, the City Clerk is authorized to forward a copy of this Ordinance to the DCA for approval pursuant to Sections 380.05(6) and (11), Florida Statutes.

Section 6. This Ordinance shall be effective immediately upon approval by the DCA pursuant to Chapters 163 and 380, Florida Statutes.

Section 7. This Ordinance shall be effective immediately upon approval by the DCA pursuant to Chapter 380, Florida Statutes.

ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 12th DAY OF JULY, 2011.

THE CITY OF MARATHON, FLORIDA



Ginger Snead, Mayor

AYES: Worthington, Keating, Ramsay, Cinque, Snead
NOES: None
ABSENT: None
ABSTAIN: None

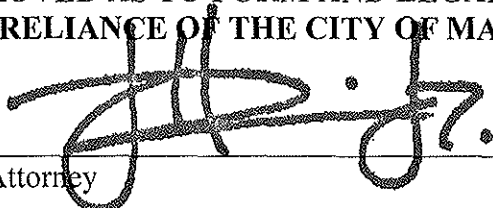
ATTEST:



Diane Clavier, City Clerk

(City Seal)

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



City Attorney

Rick Scott
GOVERNOR



Doug Darling
EXECUTIVE DIRECTOR

October 20, 2011

The Honorable Ginger Snead
Mayor, City of Marathon
9805 Overseas Highway
Marathon, Florida 33050

Dear Mayor Snead:

The State Land Planning Agency (the Agency) has completed its review of the adopted comprehensive plan amendment for Marathon (Amendment No. 11-1) adopted on July 12, 2011, by Ordinance Number 2011-07, and on August 23, 2011 by Ordinance Number 2011-10. The amendment was received and determined complete on September 6, 2011. 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 Agency is therefore issuing a Notice of Intent to find the comprehensive plan amendment in compliance. A copy of the Notice of Intent has been posted on the Agency's Internet website.

The Agency'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 has been filed. If this plan amendment is challenged by an affected person, the amendment will not become effective until the State Land Planning Agency or the Administration Commission enters a final order determining the amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective.

If you have any questions relating to this review, please contact Barbara Powell, at (850) 717-8504, or by email at Barbara.Powell@deo.myflorida.com.

Sincerely,

Mike McDaniel, Chief
Bureau of Community Planning

MM/bep

Enclosure: Notice of Intent

cc: George Garrett, AICP, Director of Planning, City of Marathon
James F. Murley, Interim Executive Director, South Florida Regional Planning Council

The Caldwell Building 107 E. Madison Street Tallahassee, Florida 32399-4120
850.245.7105 TTY/TDD 1-800-955-8771 Voice 1-800-955-8770 FloridaJobs.org



STATE OF FLORIDA
DEPARTMENT OF ECONOMIC OPPORTUNITY, THE STATE LAND PLANNING
AGENCY
NOTICE OF INTENT TO FIND
CITY OF MARATHON
COMPREHENSIVE PLAN AMENDMENT
IN COMPLIANCE
DOCKET NO. 11-1-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. 2011-07 on July 12, 2011 and Ordinance No. 2011-10 on August 23, 2011, IN COMPLIANCE, pursuant to Section 163.3184(4), F.S.

If a timely petition challenging the Amendment was not filed within thirty (30) days after the local government adopted the Amendment, the Amendment becomes effective upon the posting of this Notice of Intent on the Department Internet Website. If a timely petition was 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.



Mike McDaniel, Chief
Bureau of Community Planning
Division of Community Development
Department of Economic Opportunity
107 East Madison Street
Tallahassee, Florida 32399