

CITY COUNCIL AGENDA STATEMENT



Meeting Date: October 8, 2024
To: Honorable Mayor and City Council
From: Brian Shea, Planning Director
From: George Garrett, City Manager

Agenda Items: **Ordinance 2024-11**, Amending The City’s Comprehensive Plan, Amending Objective 1-4.1 “Provide Workforce-Affordable Housing Building Permit Allocations”; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To Florida Commerce; And Providing For An Effective Date Upon The Approval Of This Ordinance By Florida Commerce.

Ordinance 2024-12, Amending Chapter 107, Article 1 “Building Permit Allocation System” By Amending Section 107.04 “Establishment Of Allocation Pools” To Remove The Cumulative Limit; Providing For The Repeal Of All Ordinances Or Parts Thereof Found To Be In Conflict; Providing For Severability; Providing For The Transmittal Of This Ordinance To Florida Commerce After Final Adoption By The City Council; Providing For Inclusion In The Code Of Ordinances And Providing For An Effective Date..

RECOMMENDATION:

The Planning staff recommends approval of both Ordinances modifying provisions Early Evacuation BPAS units.

APPLICANT: City of Marathon

REQUEST: Amend City of Marathon Comprehensive Plan and Land Development Regulations in order to recognize that the City of Marathon may allow any of the 1,300 early evacuation affordable units to be used within the City of Marathon, should any come available from other jurisdictions.

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 the 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 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.

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 amendment and for future comprehensive plan amendments.

BACKGROUND

Staff is recommending changes to the below highlighted three sentences in the Comprehensive Plan. An analysis of properties that are over dense has noted that a majority of these sites were given the FLUM designation of RH. Based upon the current comprehensive plan, these over dense properties would only be able to transfer to other high-density properties, while still limited by the maximum density requirements of the LDRs. This does not meet the goals of infill development and reducing the potential for future takings cases. Under the existing LDRs, criteria are already in place stating that the receiving site must be zoned to meet the requested use, but also meet all other provisions of the Comp Plan and LDRs. This includes the requisite densities as set forth in Table 103.15.2. Additionally, even lots meeting the criteria as set forth in 108.13.A are eligible to

ANALYSIS

Natural Resources

No Significant Impact would result from the proposed change, as the original language regarding resource protection is not being touched.

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

No Significant Impact would result from the proposed change.

Affordable Housing

The proposed amendment will significantly enhance the City's continuing efforts to enhance affordable housing in the Keys.

Hazard Mitigation

No Significant Impact would result from the proposed change.

Coastal High Hazard Areas

No Significant Impact would result from the proposed change.

Hurricane Evacuation

No Significant Impact would result from the proposed change. All Early Evacuation units (tenants) would be required to evacuate within the first 24 hours of a 48 hour evacuation window. The City's (and County) obligation is to be prepared to evacuate at 24 hours before the impacts of Tropical Storm Force Winds in the Keys.

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 in regard to land acquisition.

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 criteria and explanation of relevance to this proposed amendment are listed below:

A. The need and justification for the change;

The City has already granted the 300 early evacuation affordable housing units. There are 1,300 units total. Key West, Islamorada, and Unincorporated Monroe County also received 300 units each. Should any jurisdiction not want to use the units within their area, the change allows the City to receive the units.

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

Comprehensive Plan Policy 1-3.5.9, requires that the City “shall work with the State to obtain more residential allocations specifically for affordable housing.” The Administrative Commission’s Workforce-Affordable Housing Initiative is the result of the City’s efforts to obtain more affordable allocations. Additionally, Objective 5-1.1 entitled “Improve Intergovernmental Coordination” states:

The City shall continue to improve coordination among government agencies with planning and impact assessment duties affecting the City. The City shall maintain coordination mechanisms and interlocal agreements with other units of local government providing services but not having regulatory authority over the use of land, and with the Plans of adjacent municipalities, the county and adjacent counties.

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 text amendments do further the purposes of the LDRs and other City Codes, regulations and actions designed to implement the Comprehensive Plan by providing expanding on the mechanism to obtain and implement the Workforce-Affordable Housing Initiative. The changes to the LDRs and Comprehensive Plan ensure consistency between the two documents. Additionally, by duplicating the same language that Key West adopted, we are ensuring consistency of language between jurisdictions.

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 Amendments are consistent with and further the goals of the City of Marathon Comprehensive Plan and Land Development Regulations.

RECOMMENDATION:

The Planning staff recommends approval of both Ordinances modifying provisions Early Evacuation BPAS units. The Planning Commission recommended denial of the Comprehensive plan ordinance 3-2. The Planning Commission recommended approval of the LDR ordinance 3-2.

Sponsored By: Garrett
Planning Commission Public Hearing Date: September 16 2024
City Council Public Hearing Date: October 08 2024
TBD
Enactment Date: TBD

**CITY OF MARATHON, FLORIDA
ORDINANCE 2024-11**

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING THE CITY'S COMPREHENSIVE PLAN, AMENDING OBJECTIVE 1-4.1 "PROVIDE WORKFORCE-AFFORDABLE HOUSING BUILDING PERMIT ALLOCATIONS"; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO FLORIDA COMMERCE; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY FLORIDA COMMERCE.

WHEREAS, the City of Marathon (the "City") has adopted a Comprehensive Plan which has been found to be in compliance by the State Land Planning Agency, "Florida Commerce" pursuant to Chapter 163, Florida Statutes; and

WHEREAS, the City is located within the Florida Keys Area of Critical State Concern (the "FKACSC"), as established pursuant to Chapter 380, Florida Statutes; and

WHEREAS, pursuant to the provisions of Chapters, 163, 166 and 380 Florida Statutes, the City of Marathon, Florida (the "City") proposes to amend Chapter 1, "Future Land Use Element," of the Comprehensive Plan; and

WHEREAS, amending the Objective furthers the goals, objectives and policies of the City Comprehensive Plan (the "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 proposed text amendment on September 16, 2024 at a duly noticed public hearing, and has recommended approval of the proposed text amendment to the City Council; and

WHEREAS, pursuant to the same legislative provision, the City Council considered the recommendation of the Planning Commission, accepted public input, and deliberated on the proposed Policy amendment on October 8, 2024 at a duly noticed public hearing, and recommended that the amendment be transmitted to the Florida Department of Commerce for review; and

WHEREAS, On October 08, 2024, the City Council on first hearing, reviewed and approved transmittal of this Ordinance to the Florida Department of Commerce and other required agency reviewers on October 08, 2024; and

WHEREAS, On ~~XXX~~, 2024, the City Council on adoption hearing, reviewed and approved this Ordinance based upon the Objections Recommendations, and Comments of the Florida Department of Commerce and other required agency reviewers on ~~XXX~~, 2024; and

WHEREAS, the City Council finds that approval of the proposed Policy amendments are in the best interest of the City and complies with applicable laws and is 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 Plan, Chapter 102, Article 6 of the Code, and promotes and protects the health, safety and welfare of the residents of the City; and

WHEREAS, the City Council desires to approve the proposed amendments for transmittal to the Department of Commerce pursuant to Chapter 163.3184(3) F.S., in accordance with State law,

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 1, Future Land Use Element, Objective 1-4.1:

Objective 1-4.1 Provide Workforce-Affordable Housing Building Permit
Allocations.

Pursuant to Policy 1-3.5.9, the City has worked with the State Department of ~~Economic Opportunity~~ **Commerce** to “obtain more residential allocations specifically for affordable housing.” The City thereby, shall establish a new limited category to be known as the “Affordable - Early Evacuation Pool” which will provide 300 workforce-affordable building permit allocations for the Workforce-Affordable Housing Initiative, **as well as any additional allocations which may be authorized by the Florida Administration Commission, Florida Statute, or transferred to Marathon that are not accepted by other Florida Keys municipalities or Monroe County.** These allocations are in addition to the maximum allocations identified in Rules 28-18, Florida Administrative Code. The City shall be responsible for the management, distribution, and enforcement of requirements associated with the Early Evacuation Affordable allocations. The City of Marathon shall ensure adherence to these requirements through implementation of the

¹Additions to existing text are shown by underline; deletions are shown as ~~strikethrough~~

policies of this objective.

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 Department of Commerce 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 the state land planning agency (Florida Commerce) pursuant to Chapters 163 and 380, Florida Statutes.

ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, this XX day of _____, 2024.

THE CITY OF MARATHON, FLORIDA

XXX, Mayor

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

Diane Clavier
City Clerk

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

Steve Williams, City Attorney

¹Additions to existing text are shown by underline; deletions are shown as ~~strikethrough~~

From: [Brian Shea](#)
To: [Lorie Mullins](#); [Steve Williams](#)
Cc: [George Garrett](#); [Diane Clavier](#)
Subject: Early Evacuation Comp Plan changes
Date: Monday, August 19, 2024 4:19:43 PM

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Set for Sept. PC
October CC
Render to State
And brought back for final adoption.
And re-render of just LDR.

H:\Planning\Comp Plan & LDR Amendments\CP - Proposed Changes\2024\EE units

Sincerely,

Brian Shea

Planning Director, AICP CFM

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