

**ORDINANCE NO. 02-12-01**

**AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING THE COMPREHENSIVE PLAN TO ALLOW ACCESSORY STRUCTURES AND USES WITHIN THE SHORELINE AND DISTURBED WETLAND SETBACKS; PROVIDING FOR COMPLIANCE WITH MINIMUM STORMWATER MANAGEMENT CRITERIA AS A CONDITION OF DEVELOPMENT WITHIN THE SHORELINE AND DISTURBED WETLAND SETBACKS; PROVIDING FOR SEVERABILITY; 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, Florida (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**, Section 380.552, *Florida Statutes*, establishes Principles for Guiding Development in the FKACSC; and

**WHEREAS**, the Principles for Guiding Development provide that the Comprehensive Plan (the "Plan") and Land Development Regulations (the "LDRs") of the City shall protect its upland, shoreline and marine resources, its near shore waters, and the maximum well being of its residents through sound economic development; and

**WHEREAS**, the Plan went into effect in January, 1996; and

**WHEREAS**, a significant percentage of the existing structures within the City were developed prior to the effective date of the Plan, and are therefore, in non-compliance with the Plan and LDRs concerning stormwater management; and

**WHEREAS**, the lack of proper stormwater management within the City has resulted in near shore water quality problems; and

**WHEREAS**, the quality of the City's near shore waters is critical to the City's economic well being as a result of the significant role they have in the area's tourism economy; and

**WHEREAS**, allowing development of accessory structure and uses within the shoreline and disturbed wetland setbacks, while simultaneously requiring compliance with the Plan and LDRs concerning stormwater management furthers the Principles for Guiding Development in the FKACSC; and

**WHEREAS**, pursuant to Section 163.3174, *Florida Statutes*, and Section 9.5-22 of the LDRs, the City's Planning Commission sitting as the Local Planning Agency has publicly considered the amendments to the Plan set forth in this Ordinance (the "Amendments") at a properly noticed public hearing and recommended to the City Council the adoption of the Amendments; and

**WHEREAS**, in accordance with Sections 163.3184 and 166.041, *Florida Statutes*, public notice has been given of the public hearings for the proposed adoption of this Ordinance amending the Plan; and

**WHEREAS**, the City Council finds the adoption of the Amendments, in substantially the form attached hereto, is in the best interest of the City and complies with applicable State laws and rules.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA AS FOLLOWS:**

**Section 1.** \_\_\_\_\_ **—Recitals.** The above recitals are true, correct, and incorporated herein by this reference.

**Section 2. Adoption of the Amendments.**— The Amendments, attached hereto as Exhibit “A” and incorporated herein, are hereby adopted in accordance with State law.

**Section 3. Transmittal.** The City Clerk shall transmit the Amendments 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. Replacement of County Comprehensive Plan.** Upon their effective date, the Amendments 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*, Rule 28-19.200, *Florida Administrative Code*, and Section 9(6)(A) of the City Charter to the fullest extent allowed by law.

**Section 5. Severability.** 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. Effective Date.** This Ordinance shall be effective immediately upon adoption by the City Council on second reading, except that the effective date of the Amendments approved by the Ordinance shall be the date a final order is issued by the Department or Administration Commission finding the Amendments “in compliance” in accordance with Section 163.3184, *Florida Statutes*, whichever occurs earlier. No development orders, development permits, or land uses dependent on the Amendments may be issued or commenced before the Amendments have become effective. The Department’s notice of intent

to find the Amendments in compliance shall be deemed to be a final order if no timely petition challenging the Amendments is filed.

The foregoing Ordinance as offered by Councilman Bartus who moved for its adoption. This motion was seconded by Councilman Johnson, and upon being put to a vote, the vote was as follows:


Mayor Robert Miller	<u>Yes</u>
Vice Mayor John Bartus	<u>Yes</u>
Councilman Frank Greenman	<u>Yes</u>
Councilman Jon Johnson	<u>Yes</u>
Councilman Randy Mearns	<u>Yes</u>

PASSED on first reading this 22<sup>nd</sup> day of May, 2001.

The foregoing Ordinance as offered by Councilman BARTUS, who moved for its adoption. This motion was seconded by Councilman GREENMAN, and upon being put to a vote, the vote was as follows:

Mayor Robert Miller	<u>Yes</u>
Vice Mayor John Bartus	<u>Yes</u>
Councilman Frank Greenman	<u>Yes</u>
Councilman Jon Johnson	<u>Yes</u>
Councilman Randy Mearns	<u>Yes</u>

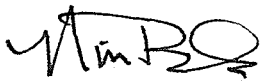
PASSED AND ADOPTED on second reading this 18<sup>th</sup> day of December, 2001.

  
ROBERT MILLER, MAYOR

ATTEST:

Katherine V. Selchan  
CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY:



CITY ATTORNEY

2<sup>nd</sup> & Final Reading – Ordinance Amending Comp Plan – Wetland Setbacks  
#3216 – Comp Plan Amend

**SCANNED**

1/9/02 #4709 KS ✓

## EXHIBIT "A"<sup>1</sup>

### Policy 102.1.1

Upon adoption of the Comprehensive Plan, the ~~County~~ City shall utilize the Environmental Standards found in Section 9.5-~~33643~~ through 9.5-3425 of the Land Development Regulations (hereby incorporated by reference) to protect submerged lands and wetlands. Accordingly, the open space requirement shall be one hundred (100) percent of the following types of wetlands:

1. submerged lands;
2. mangroves;
3. salt ponds;
4. freshwater wetlands; and
5. freshwater ponds.

Upon adoption of the Comprehensive Plan the ~~County~~ City shall further protect its wetlands by requiring a one hundred (100) percent open space requirement for undisturbed salt marsh and buttonwood wetlands except as provided for in Policy 204.2.2, 204.2.3 and by requiring a 50 foot buffer around freshwater resources.

Allocated density (dwelling units per acre) shall be assigned to freshwater wetlands and undisturbed salt marsh and buttonwood wetlands only for use as transferable development rights away from these habitats. Submerged lands, salt ponds, and mangroves shall not be assigned any density or intensity. [9J-5.006(3) (c) 1 and 6]

### Policy 203.1.3

~~Monroe County~~ The City shall require minimum vegetated setbacks of fifty (50) feet to be maintained as an open space buffer for development occurring adjacent to undisturbed wetlands and high quality salt marsh buttonwood association wetlands ~~all types of wetlands including mangroves~~ except as provided for in Policy 204.2.2, 204.2.3 and 204.2.4 and for tidally inundated mangrove fringes. If a 50-foot setback results in a principal structure footprint of reasonable configuration of less than 2,000 square feet, then the setback shall be reduced to allow a principal structure footprint of reasonable configuration of no more than 2,000 square feet less than 2,000 square feet of buildable area, then the setback may be reduced to the minimum necessary to allow for 2,000 square feet of buildable area; however, in no even shall the setback be less than 20 feet. The 50 foot setback requirement shall be reduced to 20 feet without regard to principal structure footprint for properties that are scarified if the setback area is planted and maintained in native vegetation at double the density of a class "D" landscape bufferyard utilizing planting material suitable for the site. "Development" shall include all activities as currently defined in the F.S. 380.05-compliant Land Development Regulations, hereby incorporated by reference.

High quality wetlands are those wetlands that score 7.0 or greater on the Keys Wetland Evaluation Procedure (KEYWEP). Disturbed wetlands are those wetlands where the topography,

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

hydrology, soil or natural vegetation has been permanently impacted to such a degree that succession to the original wetland community is not likely. Undisturbed wetlands are those wetlands where the topography, hydrology, soil or natural vegetation of the original wetland community has not been permanently impacted.

#### **Policy 204.2.2**

No structures shall be permitted in submerged lands, mangroves, salt ponds, ~~or freshwater wetlands, undisturbed wetlands or high quality salt marsh buttonwood association wetlands,~~ except for elevated, pile supported walkways, docks, piers and utility pilings. No fill shall be permitted in submerged lands, mangroves, salt ponds, ~~or freshwater wetlands, undisturbed wetlands or high quality salt marsh buttonwood association wetlands~~ except;

1. as specifically allowed by Objective 212.6 and subsequent Policies;
2. to fill a manmade, excavated water body such as a canal or swimming pool if the ~~Director of Environmental Resources~~ City Manager or designee determines that such filling will not have a significant adverse impact on marine or wetland communities; or
3. as needed for the siting of necessary public facilities when it can be demonstrated that the siting will serve a legitimate public purpose and an analysis has been undertaken prior to finalizing plans for the siting of any new or any significant expansion (greater than 25 percent) of existing public facilities . The analysis shall include an evaluation of need; evaluation of alternative sites and design alternatives for the selected sites and an assessment of impacts on surrounding land uses and natural resources or as needed for shoreline stabilization or beach renourishment projects with a valid public purpose that furthers the goals of the ~~Monroe County City Comprehensive Plan, as determined by the Directors of Planning and Environmental Resources~~ City Manager or designee. All such projects shall require approval by the Florida Department of Environmental Protection and the U.S. Army Corps of Engineers prior to issuance of a ~~County City~~ building permit. [9J-5.012(3)(c)1 and 2; 9J5.013(2)(c) 6]

#### **Policy 204.2.4**

~~Notwithstanding other provisions of this comprehensive plan regarding disturbed wetlands, no development activities shall be allowed in wetlands pending completion of the ADID program (referenced in Policy 204.1.1 above) or other similar functional assessment of disturbed wetlands in the County. No later than January 4, 1999, the ADID or other similar revised program shall assess the functional value of disturbed wetlands in the County and develop an evaluation index to determine the appropriate level of development for disturbed wetlands. Upon completion and adoption of the functional assessment, it shall be incorporated into the plan, along with a functional definition of disturbed wetlands, by plan amendment.~~

Lands that meet the statutory definition of wetlands and that are classified as disturbed salt marsh wetlands of moderate or low functional capacity, which are those wetlands that score below 7.0 as determined by a Keys Wetlands Evaluation Procedure ("KEYWEP") analysis, may be filled for development. Any such fill and development shall be placed, located, designed, constructed, and

mitigated in conformance with the applicable rules, regulations and Code provisions of the Army Corp of Engineers (“ACOE”), the Florida Department of Environmental Protection (“FDEP”), and the City. Approvals or exemption letters by the ACOE and FDEP shall accompany all City development applications for any proposed development in such disturbed wetlands.

### **Policy 204.2.6**

~~Upon adoption of the Comprehensive Plan, Monroe County~~ The City shall adopt revised environmental standards and environmental design criteria which establish minimum vegetated setbacks of fifty (50) feet to be maintained as an open space buffer for development occurring adjacent to all types of undisturbed wetlands and high quality salt marsh buttonwood association wetlands and to freshwater wetlands, except as provided for in Policy 204.2.2, and 204.2.3 and 204.2.4. If a 50-foot setback results in a principal structure footprint of reasonable configuration of less than 2,000 square feet, then the setback shall be reduced to allow a principal structure footprint of reasonable configuration of no more than 2,000 square feet less than 2,000 square feet of buildable area, than the setback may be reduced to the minimum necessary to allow for 2,000 square feet of buildable area; however, in no event shall the setback be less than 20 feet. The 50 foot setback requirement shall be reduced to 20 feet without regard to principal structure footprint for properties that are scarified if the setback area is planted and maintained in native vegetation at double the density of a class “D” landscape bufferyard utilizing planting material suitable for the site. “Development” shall include all activities as currently defined in the F.S. 380.05-complaint Land Development Regulations, hereby incorporated by reference. [9J-5.012(3)(c)1 and 2; 9J-5.013(2)(c)6]

### **Policy 206.1.3**

Permitted uses within the shoreline setback along natural shorelines characterized by beach/berm vegetation shall be ~~limited to docks and walkways~~ consistent with Objective 212.2 and located so as to have no adverse impacts upon the beach/berm. Other than docks, utility pilings, fences, walkways, water observation platforms and walkways, all permittable accessory structures within the shoreline setback must maintain at least a twenty-five (25) foot setback from the MHWL or the landward toe of the dune, whichever is further landward. Permittable accessory structures within the shoreline setback are limited to outdoor sport or recreational accessory structures such as, but not limited to, non-enclosed decks, gazebos, pools, spas, permanent barbecues, fish cleaning tables, picnic tables and seating structures. Shoreline Aaccess shall be restricted to wooden dune walkover structures which, shall be elevated on pilings or other supports and, in the absence of a dock or water observation platform, shall terminate at the waterward toe of the dune. Notwithstanding the provisions above, no development other than pile supported docks and walkways designed to minimize adverse impacts on marine turtles shall be allowed within fifty (50) feet of any portion of any beach berm complex which is known to be or is a potential nesting area for marine turtles. All structures shall be elevated on pilings or other supports. [9J-5.012(3)(c)1, 2 and 3; 9J-5.013(2)(c)6]

### **Policy 206.1.5**

Clearing of beach/berm vegetation shall be in the area landward of the ~~shoreline~~ required setback and shall be limited to the minimum clearing required to allow development of a permitted use. Prior to commencement of construction, the immediate area required for construction shall be enclosed with fencing. No vehicular or pedestrian traffic shall be permitted outside the fenced areas for the duration of the construction period. All areas disturbed during construction shall be



managed to avoid the introduction and/or establishment of invasive exotic species. [9J-5.012(3)(c)1,2 and 3; 9J-5.013(2)(c)6]

## **Objective 212.2**

~~Monroe County~~ The City shall adopt minimum performance standards designed to reduce the stormwater runoff impacts, aesthetic impacts, and hydrologic impacts of shoreline development.

### **Policy 212.2.1**

Minimum coastal construction setbacks currently in use in ~~Monroe County~~ the City shall be ~~reviewed in coordination with DNR and FGFWFC. Setbacks shall be identified~~ which will accomplish the following:

1. protect natural shoreline vegetation;
2. protect marine turtle nesting beaches;
3. protect water quality (through assimilative and filtrative uptake of pollutants by protected natural shoreline vegetation).
4. protect structures from the effects of long-term sea level rise;
5. protect beaches and shorelines from erosion; and
6. protect the character and overwater views of the community.

~~Existing setbacks in the Land Development Regulations (Monroe County BOCC, 1990) shall be revised as deemed appropriate based upon findings of this review. The setbacks currently in use shall be the minimum and shall not be relaxed. Existing setbacks in the Land Development Regulations are summarized as follows:~~

All principal structures shall be setback from shorelines as follows:

- (1) All principal structures shall be setback twenty (20) feet, as measured from mean high water line ("MHWL"), for manmade canals, channels, basins and lawfully altered shorelines.
- (2) On open water, all principal structures shall be setback fifty (50) feet, as measured from the MHWL or the landward extent of the mangroves whichever is further landward, for all unaltered and unlawfully altered shorelines.
- (3) On open water, all principal structures shall be setback thirty (30) feet, as measured from the landward extent of the mangroves, where the original slope landward of the water has been significantly altered by filling but a mangrove fringe exists that is contiguous from side lot line to side lot line and is at least ten (10) feet wide at the root zone.
- (4) On open water where the original slope landward of the water has been significantly altered by filling where no bulkhead, significant armoring or mangrove fringe exists that is contiguous from side lot line to side lot line, all principal structures shall be setback thirty (30) feet, as measured from the MHWL, provided that native vegetation exists or is planted and maintained in at least a ten (10) foot width across the entire shoreline; otherwise the setback shall be fifty (50) feet, as measured from the MHWL.
- (5) On in-fill lots along open water shorelines not adjacent to manmade canals, channels or basins, and which have been altered by the legal placement of fill which are surrounded by significant development where principal structures are set back less than fifty (50) feet from the MHWL or the landward extent of the mangroves, the City Manager or designee may evaluate the community character, the presence or absence of environmental features, and the setbacks on adjacent developed properties within two

parcels on either side of the proposed development, and may allow principal structures to be setback as far as is practicable or in line with adjacent principal structures. In no event shall the setback be less than twenty (20) feet. On shorelines where the existing pattern of setback is greater than thirty (30) feet, the greater setback shall apply.

An exception to this shoreline setback requirement shall be allowed only for utility pilings, fences, docks, boat ramps, boat slips, boat shelters, seawalls, retaining walls, riprap, bulkheads, walkways, and outdoor sport and recreational accessory structures such as, but not limited to, non-enclosed decks, gazebos, pools, spas, permanent barbecues, fish cleaning tables, picnic tables and seating structures, which are allowed within the shoreline setback.

- (1) All permissible accessory structures within the shoreline setback other than docks, docking facilities, utility pilings, fences, boat ramps, boat slips, boat shelters, seawalls, retaining walls, riprap, bulkheads, walkways, water observation platforms and water observation walkways must maintain a twenty-five (25) foot setback from the MHWL or the landward extent of the mangroves, whichever is further landward, on all unaltered shorelines.
  - (2) All permissible accessory structures within the shoreline setback other than docks, docking facilities, utility pilings, fences, seawalls, retaining walls, riprap, walkways, water observation platforms and water observation walkways must maintain a fifteen (15) foot setback from the landward extent of the mangroves on all significantly filled shorelines on open water with a contiguous mangrove fringe.
  - (3) Provided that native vegetation exists or is planted and maintained in at least a ten (10) foot width across the entire shoreline, on all significantly filled shorelines on open water where there is no bulkhead, significant armoring or mangrove fringe that is contiguous from side lot line to side lot line, all permissible accessory structures within the shoreline setback other than docks, docking facilities, utility pilings, fences, seawalls, retaining walls, riprap, walkways, water observation platforms and water observation walkways must maintain a fifteen (15) foot setback from the landward edge of the 10 wide foot shoreline bufferyard; otherwise, for scarified parcels all permissible accessory structures must maintain the setbacks established for unaltered shorelines on open water.
  - (4) Pools, spas and any enclosed structure over six (6) feet tall shall be set back ten (10) feet from MHWL along lawfully altered shorelines.
  - (5) In no event shall the total combined area of all upland accessory structures within the shoreline setback occupy more than sixty percent (60%) of the required shoreline setback area along manmade canals, channels, basins and for lawfully altered shorelines. In no event shall the total, combined area of all upland structures within the shoreline setback occupy more than thirty percent (30%) of the required shoreline setback area for all other shorelines.
1. ~~twenty (20) feet from the mean high tide line of manmade water bodies and/or lawfully altered shorelines of natural water bodies;~~

2. ~~fifty (50) feet from natural water bodies with unaltered shorelines or unlawfully altered shorelines, measured from the landward limit of mangroves, if any, and where mangroves do not exist, from the mean high tide line; and~~
3. ~~fifty (50) feet from any shoreline area which is known to serve as an active nesting or resting area for marine turtles, crocodiles, terns, gulls and other birds. [9J-5.012(3)(e)1,2,3 and 8; 9J-5.013(2)(e)1 and 6]~~

**Policy 212.2.3**

Permitted uses and performance standards within the shoreline setbacks shall be revised to require the property owner to install a site specific stormwater management plan as a condition to the placement of any permitted uses within the required shoreline setback. ~~in coordination with DCA to establish the following:~~ Performance standards shall be established which require that where a contiguous mangrove fringe exists along the entire shoreline, then a dock with a walkway perpendicular to the shoreline, such as a "T" or "L" dock, shall be the primary design permitted. The dock and walkway shall be located so as to avoid or minimize covering mangroves. Where a mangrove fringe exists along the shoreline and a "T" or "L" style dock would extend over more than ten percent (10%) of the width of the waterbody, the City Manager or designee may approve an alternative design not to exceed five (5) by twenty (20) feet in dimensions. All such projects shall require approval by the Florida Department of Environmental Protection and the U.S. Army Corps of Engineers prior to issuance of a County City building permit.

1. ~~structures within shoreline setbacks and submerged lands shall be limited to docks, piers, decks, walkways and utility pilings and all structures shall be elevated;~~
2. ~~only designs perpendicular to the shoreline should be allowed except where such structures would preclude lawful navigation of the waterway;~~
3. ~~walkways and accessways shall not exceed five feet in width;~~
4. ~~where perpendicular designs are not feasible, a parallel structure may be permitted provided that the structure:~~
  - a) ~~does not exceed 20 feet in length;~~
  - b) ~~does not exceed five feet in width, and~~
  - e) ~~is confined to an existing cleared area along the shoreline whenever possible; and~~
5. ~~an additional 100 square feet of the shoreline setback may be utilized for elevated decks or gazebos provided that the structure is set back at least ten feet from mean high water, no land clearing is involved, and drainage is adequately addressed.~~

This policy is not intended to prohibit hardened vertical shoreline structures as permitted in Policy 212.6.3.



STATE OF FLORIDA  
**DEPARTMENT OF COMMUNITY AFFAIRS**

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

JEB BUSH  
 Governor

STEVEN M. SEIBERT  
 Secretary

*Craig Fax + Copy*  
*Sandra Copy*  
*Kathy (Fax)*  
*Emmett (Copy)*  
*N. Bonietti*  
*A. Herin*  
*3 fax*

March 12, 2002

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

Dear Mayor Bartus:

The Department has completed its review of the adopted Comprehensive Plan Amendment (Ordinance Nos. 02-12-01, 02-12-02, 02-12-03; DCA No. 01-01) for the City of Marathon, as adopted on December 18, 2001 and determined that it meets the requirements of Chapter 163, Part II, Florida Statutes, for compliance, as defined in Subsection 163.3184(1)(b). The Department is issuing a Notice of Intent to find the plan amendment In Compliance. The Notice of Intent has been sent to the Florida Keys Keynoter for publication on March 13, 2002.

Please note that a copy of the adopted Marathon Comprehensive Plan Amendment, the Department's Objections, Recommendations and Comments Report and the Notice of Intent must be available for public inspection Monday through Friday, except for legal holidays, during normal business hours, at the Marathon City Hall located at 11045-55 Overseas Highway, Marathon, Florida.

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.

If this determination of compliance 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.

MAP 14

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 EMERGENCY MANAGEMENT  
 2555 Shumard Oak Boulevard  
 Tallahassee, FL 32399-2100  
 (850) 488-2356

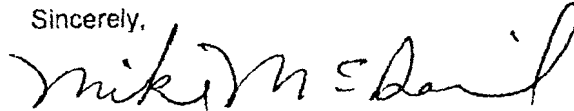
2555 Shumard Oak Boulevard  
 Tallahassee, FL 32399-2100  
 (850) 413-9969

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

Mayor Bartus  
March 12, 2002  
Page Two

If you have any questions, please contact me, or Kenneth Metcalf, Community Program Administrator, at (850) 487-4545.

Sincerely,

A handwritten signature in black ink that reads "Mike McDaniel". The signature is written in a cursive, flowing style.

Mike McDaniel  
Growth Management Administrator  
Bureau of Local Planning

MDM/km

Enclosures: Notice of Intent

cc: Craig Wrathell, City Manager  
Carolyn Dekle, Executive Director, South Florida Regional Planning Council

STATE OF FLORIDA  
DEPARTMENT OF COMMUNITY AFFAIRS  
NOTICE OF INTENT TO FIND THE  
CITY OF MARATHON  
COMPREHENSIVE PLAN AMENDMENT  
IN COMPLIANCE  
DOCKET NO. 01-1-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 Nos. 02-12-01 through 02-12-03 on December 18, 2001, IN COMPLIANCE, pursuant to Sections 163.3184, 163.3187 and 163.3189, F.S.

The adopted City of Marathon Comprehensive 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 City Hall, Planning and Building Department, 10045 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 Amendment to the City of Marathon Comprehensive Plan is In Compliance, as defined in Subsection 163.3184(1), F.S. 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 32399-1550. 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 Subsection 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, Bureau of Local Planning  
Department of Community Affairs  
Division of Community Planning  
2555 Shumard Oak Boulevard  
Tallahassee, Florida 32399-2100