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BY: *[Signature]*

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

March 28, 2006

City of Marathon  
10045-55 Overseas Hwy.  
Marathon, FL 33050

**Re: Ordinance No. 2006-03**

Dear Sir:

The Department has received your request for a letter stating whether we will appeal the above Ordinance, Pursuant to Section 380.07, Florida Statutes. We will not appeal the Ordinance; however, please note that it is still subject to the local administrative appeal provisions.

This letter is not intended to constitute, and shall not be construed as constituting, a verification of compliance with the Comprehensive Plan and Land Development Regulations, and shall not be relied upon as a precedent or a waiver of rights regarding any other development order.

Sincerely,

*[Handwritten signature: Rebecca Jetton]*

Rebecca Jetton, Administrator  
Florida Keys Area of Critical State Concern

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

**Sponsored By:** Seaward, LLC  
**Introduction Date:** January 23, 2006  
**Public Hearing Date:** January 23, 2006  
January 24, 2006  
February 13, 2006  
**Enactment Date:** February 13, 2006

**CITY OF MARATHON, FLORIDA  
ORDINANCE 2006-03**

**AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA AMENDING THE LAND USE (ZONING) MAP FROM SUBURBAN COMMERCIAL (SC) TO MIXED USE (MU) FOR PROPERTY LOCATED AT 8700 OVERSEAS HIGHWAY, AND LEGALLY DESCRIBED AS PART OF GOVERNMENT LOT 4, SECTION 1, TOWNSHIP 66 SOUTH, RANGE 32 EAST, KEY VACCAS, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00101050-000000, AND 00101050-000100; 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**, pursuant to the provisions of Chapters 163, 166 and 380 *Florida Statutes*, Seaward, LLC (the "Applicant") proposes to amend the City of Marathon, Florida (the "City") Land Use (Zoning) Map (the "Map") to change the land use district designation of property owned by the Applicant, legally described in Exhibit "A" hereto; and

**WHEREAS**, amending the Map designation of the Property furthers the goals, objectives and policies of the City Comprehensive Plan (the "Plan"); and

**WHEREAS**, pursuant to Chapter 163, *Florida Statutes*, and Sections 9.5-22 and 9.5-511 of the Code, the Planning Commission sitting as the Local Planning Agency has publicly considered the proposed Map amendment at a duly noticed public hearing, and has recommended approval of the proposed Map amendment to the City Council; and

**WHEREAS**, in accordance with Section 166.031, *Florida Statutes*, notice of the public hearings concerning the proposed Map amendment has been provided to the general public; and

**WHEREAS**, the City Council finds that approval of the proposed Map amendment is 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, Section 9.5-511 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 Map amendment, in accordance with State law.

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

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

**Section 2.** In accordance with State law and the Code, the Map designation of the Property is amended from its current designation of Suburban Commercial (SC) to Mixed Use (MU).

**Section 3.** The City shall timely transmit the revised Map reflecting the Map amendment, and all data and analysis supporting the Map amendment, 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*.

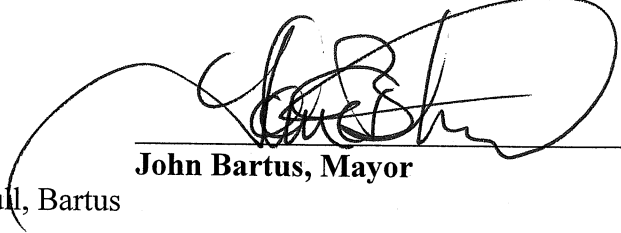
**Section 4.** That upon its effective date, the revised Map shall replace the Monroe County Land Use District Map, previously applicable to the City pursuant to Sections 163.3167(4), 380.05(10) and 380.0552(9), *Florida Statutes*, and Section 9(6) of the City Charter to the fullest extent allowed by law.

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

**Section 6.** That this Ordinance shall be effective immediately upon approval by the Department pursuant to Chapter 380, *Florida Statutes*.

**ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA**, this 13<sup>th</sup> day of February, 2006.

**THE CITY OF MARATHON, FLORIDA**

  
\_\_\_\_\_  
**John Bartus, Mayor**

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

ABSENT: None  
ABSTAIN: 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

LEGAL DESCRIPTION AS FURNISHED BY CLIENT:

DESCRIPTION OF PARCEL 1:

SITUATED IN THE COUNTY OF MONROE, STATE OF FLORIDA AND KNOWN AS BEING A PART OF GOVERNMENT LOT 4, SECTION 1, TOWNSHIP 66 SOUTH, RANGE 32 EAST ON KEY VACA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
COMMENCING AT A POINT WHERE THE SOUTHERLY RIGHT-OF-WAY OF U. S. HIGHWAY NO. 1 INTERSECTS WITH THE WEST LINE OF SECTION 12, TOWNSHIP 66 SOUTH, RANGE 32 EAST, BEAR NORTH 67 DEGREES, 51 MINUTES, 00 SECONDS EAST ALONG SAID SOUTHERLY RIGHT-OF-WAY OF SAID U. S. HIGHWAY NO. 1 RIGHT-OF-WAY A DISTANCE OF 3520.48 FEET TO THE POINT OF BEGINNING OF THE PROPERTY HEREINAFTER DESCRIBED, SAID POINT ALSO BEING AT A POINT WHERE THE SOUTHERLY RIGHT-OF-WAY LINE OF U. S. HIGHWAY NO. 1 INTERSECTS WITH THE WEST LINE OF THE EAST ONE-HALF (EAST 1/2) PARCEL OF LAND AS RECORDED AT OFFICIAL RECORD BOOK 781, PAGE 532 OF THE MONROE COUNTY, FLORIDA PUBLIC RECORDS. THENCE CONTINUE ALONG THE SOUTH RIGHT-OF-WAY LINE OF U. S. HIGHWAY NO. 1 FOR A DISTANCE OF 285.04 FEET TO A POINT ON A LINE BEING THE EAST LINE OF A PARCEL OF LAND AS DESCRIBED IN SAID OFFICIAL RECORD BOOK 781, PAGE 532 OF THE MONROE COUNTY, FLORIDA PUBLIC RECORDS. THENCE BEAR SOUTH 00 DEGREES, 00 MINUTES, 00 SECONDS EAST ALONG SAID EAST LINE A DISTANCE OF 440.47 FEET; THENCE BEAR NORTH 90 DEGREES, 00 MINUTES, 00 SECONDS WEST A DISTANCE OF 123.67 FEET; THENCE BEAR SOUTH 45 DEGREES, 00 MINUTES, 00 SECONDS WEST A DISTANCE OF 28.28 FEET; THENCE BEAR NORTH 45 DEGREES, 00 MINUTES, 00 SECONDS WEST A DISTANCE OF 28.28 FEET; THENCE BEAR NORTH 90 DEGREES, 00 MINUTES, 00 SECONDS WEST A DISTANCE OF 100.33 FEET; THENCE BEAR NORTH 00 DEGREES, 00 MINUTES, 00 SECONDS WEST A DISTANCE OF 333.00 FEET TO THE POINT OF BEGINNING. (SAID PARCEL CONTAINING 102499.521 SQUARE FEET OR 2.353 ACRES MORE OR LESS.)

DESCRIPTION OF PARCEL 2:

SITUATED IN THE COUNTY OF MONROE, STATE OF FLORIDA AND KNOWN AS BEING A PART OF GOVERNMENT LOT 4, SECTION 1, TOWNSHIP 66 SOUTH, RANGE 32 EAST ON KEY VACA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
COMMENCING AT A POINT WHERE THE SOUTHERLY RIGHT-OF-WAY OF U. S. HIGHWAY NO. 1 INTERSECTS WITH THE WEST LINE OF SECTION 12, TOWNSHIP 66 SOUTH, RANGE 32 EAST, BEAR NORTH 67 DEGREES, 51 MINUTES, 00 SECONDS EAST ALONG SAID SOUTHERLY RIGHT-OF-WAY OF SAID U. S. HIGHWAY NO. 1 RIGHT-OF-WAY A DISTANCE OF 3520.48 FEET TO A POINT WHERE THE SOUTHERLY RIGHT-OF-WAY OF U. S. HIGHWAY NO. 1 INTERSECTS WITH THE WEST LINE OF THE EAST ONE-HALF (EAST 1/2) OF A PARCEL OF LAND AS DESCRIBED IN OFFICIAL RECORD BOOK 781, PAGE 532, THENCE BEAR SOUTH 00 DEGREES, 00 MINUTES, 00 SECONDS EAST ALONG SAID LINE A DISTANCE OF 333.00 FEET TO THE POINT OF BEGINNING OF THE PROPERTY HEREIN DESCRIBED; THENCE CONTINUE SOUTH 00 DEGREES, 00 MINUTES, 00 SECONDS EAST ALONG SAID LINE A DISTANCE OF 667.00 FEET MORE OR LESS TO THE SHORELINE OF THE STRAITS OF FLORIDA; THENCE MEANDER THE STRAITS OF FLORIDA IN A NORTHEASTERLY DIRECTION TO A POINT ON THE EAST LINE OF A PARCEL OF LAND AS DESCRIBED AT OFFICIAL RECORDS BOOK 781, PAGE 532 OF THE MONROE COUNTY, FLORIDA PUBLIC RECORDS; THENCE BEAR NORTH 00 DEGREES, 00 MINUTES, 00 SECONDS EAST ALONG SAID LINE A DISTANCE OF 360.00 FEET MORE OR LESS; THENCE BEAR NORTH 90 DEGREES, 00 MINUTES, 00 SECONDS WEST A DISTANCE OF 123.67 FEET; THENCE BEAR SOUTH 45 DEGREES, 00 MINUTES, 00 SECONDS WEST A DISTANCE OF 28.28 FEET; THENCE BEAR NORTH 45 DEGREES, 00 MINUTES, 00 SECONDS WEST A DISTANCE OF 28.28 FEET; THENCE BEAR NORTH 45 DEGREES, 00 MINUTES, 00 SECONDS WEST A DISTANCE OF 28.28 FEET; THENCE BEAR NORTH 90 DEGREES, 00 MINUTES, 00 SECONDS WEST A DISTANCE OF 100.33 FEET; TO SAID POINT OF BEGINNING.