

CITY COUNCIL AGENDA STATEMENT



**Meeting Date:** June 11, 2019  
**To:** City Council  
**From:** George Garrett, Planning Director  
**Through:** Chuck Lindsey, City Manager

**Agenda Item:** **Resolution 2019-62**, Consideration Of A Request For A Conditional Use Permit For Midway Specialty Care Center, Inc. Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (Code) Entitled “Conditional Use Permits” For The Development Of A Medical Clinic; Located At 11400 Overseas Highway Units 103 & 104; Which Is Legally Described As Lots 2, 17, And 18 Less The Southerly Seven Feet And Half Vacated Alley, Key Colony Subdivision, Key Vaca, Monroe County, Florida; Having Real Estate Number 00334860-000000, Nearest Mile Marker 53.

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**APPLICANT/ OWNER:** Midway Specialty Care Center, Inc.

**AGENT:** Read Marathon, LLC

**LOCATION:** The project site is located at 11400 Overseas Highway at nearest mile marker 53. See Figure 1.

**Figure 1**  
**Project Site**



**REQUEST:** A Conditional Use Permit for development of two joined units in the subject property having the real estate numbers 00334860-000000. The Applicant is requesting to establish a medical/dental clinic.

**FUTURE LAND USE MAP DESIGNATION:**  
Mixed Use Commercial (MU-C). See Figure 2.

**Figure 2**  
**Future Land Use Map**



**ZONING MAP DESIGNATION:**  
Mixed Use (MU). See Figure 3.

**Figure 3**  
**Zoning Map**



**LOT SIZE:**

Total acreage 0.97 acres or 42,570 square feet.

**SURROUNDING ZONING AND USES:**

	<u>Zoning</u>	<u>Use</u>
<b>North</b>	Conservation-Native Area and Residential Medium	Key Colony No. 4 Subdivision
<b>East</b>	Mixed Use	Animal Hospital, D' Asign Source, Aquarium, and Key Vaca Bridge
<b>South</b>	Mixed Use and Residential Medium	Curly's Coffee, Capital Bank, and Little Venice Subdivision
<b>West</b>	Mixed Use and Residential Medium	Centennial Bank, Schmitt Bldg, and Key Colony Subdivisions (Plat A, No. 1 & No. 2)

**EXISTING CONDITIONS:**

The project site consists of a developed shopping center, Town Square Mall, real estate number – 00334860-000000. The applicant is seeking to operate as a medical and dental clinic in offices to be located on the first level of the building.

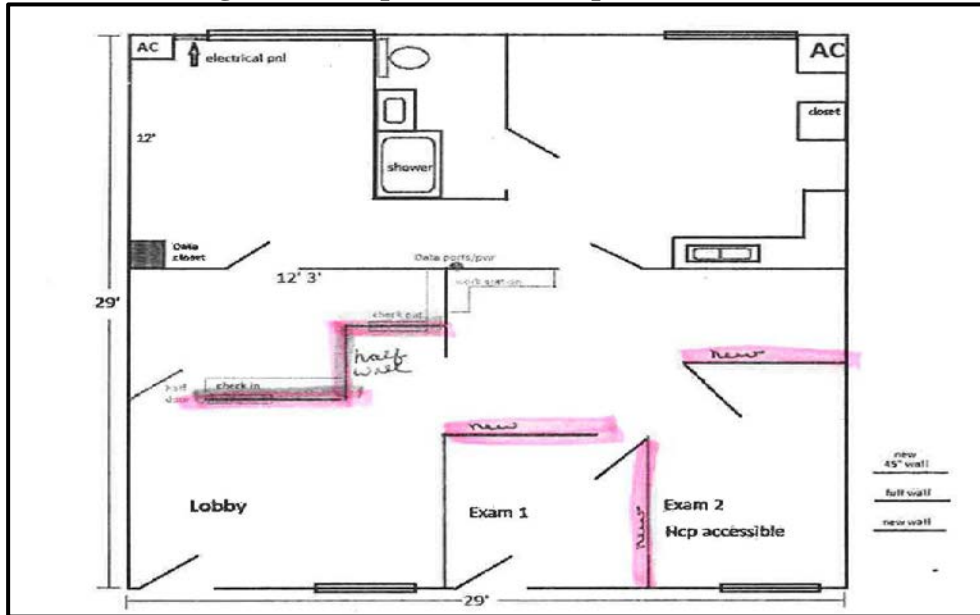
Total Floor Area of Building: 22,069 SF

**PROPOSED REDEVELOPMENT:**

Commercial Floor Area: 900 SF  
Suites #103 & #104

**See Figure 4 for Site Plan layout.**

**Figure 4 - Proposed Redevelopment Site Plan**



**BACKGROUND:**

The proposed project is a redevelopment of existing commercial office space within property and building known as Town Square Mall in order to operate a medical and dental clinic in the Mixed Use zoning classification. This report addresses the request for a Conditional Use Permit.

**All conditions of the Conditional Use approval will have to be met before any building permit will be approved.**

**EVALUATION FOR COMPLIANCE WITH THE LAND DEVELOPMENT REGULATIONS:**

The criteria for evaluating a Conditional Use Permit is outlined in Chapter 102, Article 13, in the City of Marathon Land Development Regulations.

**CRITERIA**

**A. The proposed use is consistent with the Comprehensive Plan and LDRs;**

The proposed development project is located within the Mixed Use (MU) Zoning District. Per Chapter 103, Article 2, Section 103.09 of the Land Development Regulations, the district is designed to “accommodate a wide variety of commercial and retail activities that will result in the most efficient and attractive use of the City’s historic business district and the US1 Corridor, in an effort to recognize the role of US1 as the City of Marathon’s ‘Main Street.’ The MU district also provides for large-scale retail and commercial business opportunities in other areas, including larger shopping center, specialty shopping centers, individual multi-tenant commercial buildings, automotive services and sales, fast food restaurants, affordable housing uses, transient lodging and other retail establishments that serve the community at large”.

The proposed project consists of the redevelopment of existing commercial use within the Mixed Use Zoning District. Section 103.15, Table 103.15.2, “Uses By Zoning District,” establishes whether specific uses are allowed as of right, limited, accessory or conditional use permit. That table shows that medical and dental offices and clinics uses are allowed as Conditional Uses in the MU District. Conditional Use Permit review is intended to allow a broader view of the potential impacts of a project on adjacent uses and on City concurrency related resources such as road capacity, solid waste, sewer, and potable water availability.

Table 103.15.2 in the Land Development Regulations establishes constraints on density and intensity allowed in the MU district based on the types of uses proposed. Using the property area, the proposed use can have up to 60 percent of Office FAR. Table 103.15.3 further qualifies the allowed range of intensities based on the intensity of retail use.

<b>Development Type</b>	<b>Existing</b>	<b>Proposed Redevelopment</b>	<b>Max Allowed</b>	<b>% Total Area</b>
Commercial Floor Area	22,069 SF	900 SF	25,542 SF*	51.8%

The project consists of redeveloping existing space (FAR) which in total is within the allowed FAR @ 60%.

The project as proposed meets the basic definition of development in the MU zoning district.

Therefore, with conditions, the request is *in compliance* with the requirements of these sections.

**B. The proposed use is compatible with the existing land use pattern and future uses designated by the Comprehensive Plan;**

The proposed project is located within the Mixed Use Commercial Future Land Use District. Policy 1-3.1.4 of the City of Marathon Comprehensive Plan states that the “principal purpose of the Mixed Use Commercial land use category is to provide for the establishment of mixed use development patterns and to recognize established mixed use development patterns within the City.” The proposed project includes redevelopment of an existing conditional use (Commercial) into a similar conditional use (medical and dental offices and clinics), which is consistent with the Mixed Use classification.

The existing land use pattern in the project vicinity consists of hammocks to the North, Mixed Use and Residential Medium to the South, Commercial to the east and Commercial and Residential homes to the west.

Therefore, the request is *in compliance* with the requirements of these sections.

**C. The proposed use shall not adversely affect the health, safety, and welfare of the public;**

The proposed conditional use is a redevelopment of an existing use which has not had any known impact to the health, safety and welfare of the public. No new impacts are expected to arise with the redevelopment.

Plans submitted with the project are suitable for the Conditional Use Approval as they relate to Chapter 107, Article 12, 100 Year Floodplain.

Therefore, the request is ***in compliance*** with the requirements of these sections.

**D. The proposed conditional use minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment:**

The existing conditions maps indicate the subject area is designated as Developed Land. A site inspection showed the current conditions as scarified with existing buildings and asphalt parking lot.

The applicant is not required to submit a detailed vegetation plan that is compliant with the landscaping requirements.

Therefore, with conditions, the request is ***in compliance*** with the requirements of these sections.

**E. Satisfactory provisions and arrangements have been made concerning the following matters, where applicable:**

**1. Ingress and egress to the property and proposed structures thereon with particular reference to automotive, bicycle, and pedestrian safety and convenience, traffic flow and control and access in cases of fire or catastrophe;**

The applicant is not required to submit a breakdown of the proposed occupancy of the onsite buildings.

Ingress and egress to the property is being provided through driveways onto Overseas Highway and 113<sup>th</sup> Street.

The redevelopment of these properties will not require additional fire suppression measures.

Therefore, with conditions, the request is ***in compliance*** with the requirements of these sections.

- All conditions of the Fire Marshall must be met prior to permit issuance. There are no known concerns as this is an existing commercial building.

**2. Off-street parking and loading areas where required, with particular attention to item 1 above;**

Parking requirements are outlined in Section 107.46 (Parking Schedule). The following table shows the parking requirement for the commercial uses on the parcel:

Use	Code Citation	Requirement	Spaces Required
Medical, dental office Medical Clinic	Table 107.46.1	1 per 200 SF GFA	4 spaces

Section 107.52 includes a requirement that one handicapped space be provided for every 25 spaces required. For four (4) spaces, one (1) handicapped spaces are required. Parking space sizes are 9' x 18' for 90 degree parking, and handicapped spaces are 12' x 21' as required by Code. The proposed site plan is consistent with the code requirements for parking and aisle width. Additionally, the applicant proposed that the parking for the medical/dental clinic be handled through the existing parking.

The Code also requires bicycle parking to be provided for educational facilities, multifamily dwellings, commercial, institutional and industrial uses, as well as all developments adjacent to a bike path, at a rate of one (1) space for every ten (10) parking spaces, per Section 107.48, which currently exists on site.

Therefore, with the conditions noted above, the request is ***in compliance*** with the requirements of these sections.

**3. The noise, glare or odor effects of the conditional use on surrounding properties;**

The proposed project consists of redevelopment of two existing commercial use units. No new lighting will be necessary for this project.

Therefore, with conditions, the request is ***in compliance*** with the requirements of this section.

**4. Refuse and service areas, with particular reference to locations, screening and Items 1 and 2 above;**

**5. Utilities, with reference to location and availability;**

Chapter 107, Article 13, establishes the City's Concurrency Management and certification requirements. This Conditional Use constitutes the City's Concurrency Level of Service Certificate, as follows:

- Wastewater: This redevelopment will have a de minimis impact on wastewater.
- Water: The Florida Keys Aqueduct Authority currently provides potable water for the facility.
- Solid Waste: Marathon Garbage Service will provide solid waste disposal.
- Surface Water: This redevelopment will have a de minimis impact on surface water.
- Recreation and Open Space: This redevelopment will have a de minimis impact on recreation and open space.
- Roadways: This redevelopment will have a de minimis impact on roadways.

- Educational Facilities: This redevelopment will have a de minimis impact on educational facilities since existing uses are being replaced in kind.

Therefore, with conditions, the request is ***in compliance*** with the requirements of these sections.

- The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for a one year.

#### **6. Screening and buffering with reference to type, dimensions and character;**

Table 107.66.1 establishes project boundary buffer standards applicable to the project. The subject parcel is zoned MU and is bordered by properties zoned MU, not requiring a boundary buffer.

Section 107.71 A. requires that parcels with a MU zoning designation provide a Type 1 Streetscape Treatment for all parcels along U.S. 1. The existing landscape plan meets the minimum requirements.

Table 103.15.2 outlines setback requirements in the MU district as follow: front yard 0 – 30’; side yard 1 and 2, 0 – 10; interior side yard, 10; and, street side, 0-5’. Accessory structures, including pools, have a 10’ setback.

Section 107.36 A.1 states that for parcels in the MU district the required interior yard setback may be reduced through the conditional use process. The existing use has an interior setback of 10’, therefore so long as the proposed redevelopment meets all other setback requirements, the interior side setback is allowed at the proposed 10’.

Parking area landscaping is required by Section 107.66 of the Code. The City Biologist has reviewed the submitted parking area landscape plan and has found it to be in compliance with the code.

Therefore, with conditions, the request is ***in compliance*** with the requirements of these sections.

#### **7. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety and compatibility with surrounding uses;**

A review of sign requirements at this stage in development approval is not necessary. Signs for the project will be reviewed prior to issuance of building permit according to Chapter 107, Article 7, Signs.

Therefore, the request is ***in compliance*** with the requirements of these sections.

- All signs will be reviewed and approved for compliance with the City of Marathon LDR’s.

#### **8. Required yards and other open space;**



Section 106.16 established required open space for the project. The site is scarified; therefore, a twenty percent open space requirement applies. For the 42,570 SF parcel, the maximum coverage is 8,514 SF. The applicant proposes 900 SF, which exceeds the open space requirement.

Therefore, the request is *in compliance* with the requirements of these sections.

## **9. General compatibility with surrounding properties; and**

The project is a redevelopment of long standing existing uses in an area of the City which has been acknowledged as an area suitable for redevelopment. Adjacent uses include a commercial establishment and residential uses. A redevelopment of medical and dental clinic is expected to be fully compatible with these uses. The proposed project represents improvement to the current state of prior development, and is expected to increase compatibility with surrounding properties.

Section 107.40 restricts the height of buildings to 37' as measured from the crown of the roadway or unimproved grade. The site plans show that buildings is within the maximum requirement.

Therefore, the request is *in compliance* with the requirements of these sections.

## **CONCLUSION:**

The Conditional Use Approval is intended to allow for the integration of certain land uses and structures within the City of Marathon based on conditions imposed by the Council. Review is based primarily on compatibility of the use with its proposed location and with surrounding land uses. Conditional uses shall not be allowed where the conditional use would create a nuisance, traffic congestion, a threat to the public health, safety or welfare of the community.

The proposed redevelopment consists of the replacement and enhancement of a long standing existing commercial use. As such the development, including the overall upgrading and improvement of the site, furthers the policies for development in the City and is consistent with the Comprehensive Plan and Land Development Regulations. The project is compatible with surrounding uses, and is not expected to create a nuisance, traffic congestion or threat to public, health, safety or welfare.

## **RECOMMENDATION:**

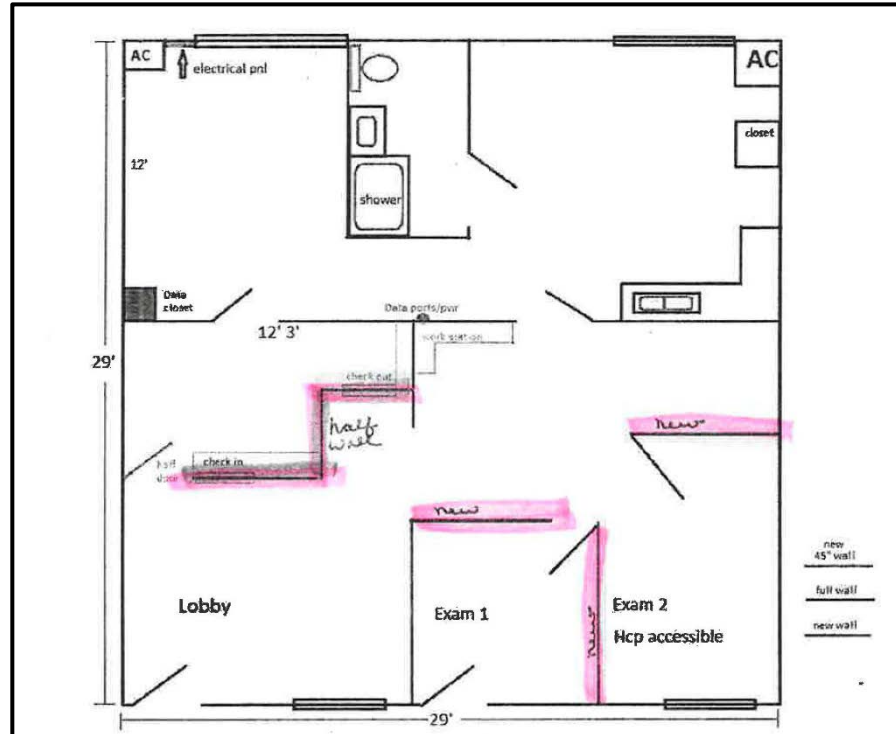
The Planning staff recommends that the Planning Commission forward a recommendation of conditional approval of the medical and dental clinic to the City Council. The proposed conditions of approval are listed below.

### Conditions of Approval

- 1) All signs and remodeling applications will be reviewed and approved for compliance with the City of Marathon LDR's.
- 2) Applicant shall provide sinks in each exam room.

**Attachments:**

Attachment: Proposed Site Plan A



**CITY OF MARATHON, FLORIDA  
RESOLUTION 2019-62**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA OF A REQUEST BY MIDWAY SPECIALTY CARE CENTER, INC. FOR A CONDITIONAL USE PERMIT, PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (LDRS) ENTITLED “CONDITIONAL USE PERMITS” FOR THE DEVELOPMENT OF A MEDICAL CLINIC; LOCATED AT 11400 OVERSEAS HIGHWAY UNITS 103 & 104; WHICH IS LEGALLY DESCRIBED AS LOTS 2, 17, AND 18 LESS THE SOUTHERLY SEVEN FEET AND HALF VACATED ALLEY, KEY COLONY SUBDIVISION, KEY VACA, MONROE COUNTY, FLORIDA; HAVING REAL ESTATE NUMBER 00334860-000000, NEAREST MILE MARKER 53.**

**WHEREAS**, Midway Specialty Care Center, Inc. (The “Applicant”) filed an Application on April 3<sup>rd</sup>, 2019 for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the City of Marathon Land Development Regulations (LDRs); and

**WHEREAS**, the applicant has proposed the development of a medical clinic of 900 square feet; and

**WHEREAS**, said Midway Specialty Care Center, Inc. property located at 11400 Overseas Hwy, Units 103 & 104 (RE No. 00334860-000000) consists of mixed use commercial uses; and

**WHEREAS**, the City staff reviewed the Applicant’s request for a Conditional Use Permit determining that the Applicant’s project proposal was in compliance with the City’s Comprehensive Plan and Land Development Regulations (LDRs) and further that there was no substantial impact on the City’s Level of Service (LOS); and

**WHEREAS**, on the 20<sup>th</sup> day May, 2019, the City of Marathon Planning Commission (the “Commission”) conducted a properly advertised public hearing (the “Public Hearing”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

**WHEREAS**, the City Council made a determination that the Applicant’s request for a Conditional Use Permit, subject to the terms of the LDRs and with Conditions imposed, was in Compliance with the City’s Comprehensive Plan and LDRs, is consistent with its policy to encourage the development of residential properties in Marathon, and will further the health, safety and welfare of the residents of Marathon,

**NOW, THEREFORE, BE IT RESOLVED 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 City Council hereby approves Development Order 2019-11, a copy of which is attached hereto as Exhibit "A", granting a Conditional Use Permit to Midway Specialty Care Center, Inc., subject to the Conditions imposed. The Director of Planning is authorized to sign the Development Order on behalf of the City.

**Section 3.** This Resolution shall take effect immediately upon execution.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 11<sup>th</sup> DAY OF JUNE, 2019.**

**THE CITY OF MARATHON, FLORIDA**

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**John Bartus, Mayor**

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

**ATTEST:**

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Diane Clavier, City Clerk

(City Seal)

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

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David Migut, City Attorney

**EXHIBIT "A"**  
**CITY OF MARATHON, FLORIDA**  
**CONDITIONAL USE**  
**DEVELOPMENT ORDER # 2019-11**

**A DEVELOPMENT ORDER APPROVING A REQUEST BY MIDWAY SPECIALTY CARE CENTER, INC. FOR A CONDITIONAL USE PERMIT, PERSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (LDRS) ENTITLED "CONDITIONAL USE PERMITS", SEEKING AUTHORIZATION FOR THE DEVELOPMENT OF A MEDICAL CLINIC; LOCATED AT 11400 OVERSEAS HIGHWAY, UNITS 103 & 104; WHICH IS LEGALLY DESCRIBED AS LOTS 2, 17, AND 18 LESS THE SOUTHERLY SEVEN FEET AND HALF VACATED ALLEY, KEY COLONY SUBDIVISION, KEY VACA, MONROE COUNTY, FLORIDA; HAVING REAL ESTATE NUMBER 00334860-000000, NEAREST MILE MARKER 53.**

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**WHEREAS**, the applicant has proposed the development of a medical clinic of 900 square feet; and

**WHEREAS**, said Midway Specialty Care Center, Inc. property located at 11400 Overseas Hwy, Units 103 & 104 (RE No. 00334860-000000) consists of mixed use commercial uses; and

**WHEREAS**, the City staff reviewed the Applicant's request for a Conditional Use Permit determining that the Applicant's project proposal was in compliance with the City's Comprehensive Plan and Land Development Regulations (LDRs) and further that there was no substantial impact on the City's Level of Service (LOS); and

**WHEREAS**, on the 20<sup>th</sup> day May, 2019, the City of Marathon Planning Commission (the "Commission") conducted a properly advertised public hearing (the "Public Hearing") regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

**WHEREAS**, the City Council made a determination that the Applicant's request for a Conditional Use Permit, subject to the terms of the LDRs and with Conditions imposed, was in Compliance with the City's Comprehensive Plan and LDRs, is consistent with its policy to encourage the development of residential properties in Marathon, and will further the health, safety and welfare of the residents of Marathon,

**FINDINGS OF FACT:**

1. The Applicant has proposed the development of a medical clinic of 900 square feet; and
2. In accordance with Section 102.77 of the Code, the Commission and Council considered and determined the Applicant met the following criteria:
  - a. The proposed use is consistent with the Comprehensive Plan and LDRs;
  - b. The proposed use is compatible with the existing land use pattern and future uses designated by the Comprehensive Plan;
  - c. The proposed use shall not adversely affect the health, safety, and welfare of the public; and
  - d. The proposed conditional use minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment; and
  - e. Satisfactory provisions and arrangements have been made concerning the following matters, where applicable:
    1. Ingress and egress to the property and proposed structures thereon with particular reference to automotive, bicycle, and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;
    2. Off-street parking and loading areas where required, with particular attention to item 1 above;
    3. The noise, glare or odor effects of the conditional use on surrounding properties;
    4. Refuse and service areas, with particular reference to location, screening and Items 1 and 2 above;
    5. Utilities, with reference to location and availability;
    6. Screening and buffering with reference to type, dimensions and character;
    7. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety and compatibility with surrounding properties;
    8. Required yards and other open space;
    9. General compatibility with surrounding properties; and

**CONDITIONS IMPOSED:**

Granting approval of the Application is subject to the following conditions:

Conditions of Approval

- 1) All signs and remodeling applications will be reviewed and approved for compliance with the City of Marathon LDR's.
- 2) Applicant shall provide sinks in each exam room.

**VIOLATION OF CONDITIONS:**

The applicant understands and acknowledges that it must comply with all of the terms and conditions herein, and all other applicable requirements of the City or other governmental agencies applicable to the use of the Property. In accordance with the Code, the Council may revoke this approval upon a determination that the Applicant or its successor or designee is in non-compliance with this Resolution or Code. Failure to adhere to the terms and conditions of approval contained herein is a violation of the Code and persons found violating the conditions shall be subject to the penalties prescribed therein.

**CONCLUSIONS OF LAW:**

Based upon the above Findings of Fact, the Council does hereby make the following Conclusions of Law:

1. The Application has been processed in accordance with the applicable provisions of the City Code, and will not be detrimental to the community as a whole; and
2. In rendering its decision, as reflected in this Resolution, the Council has:
  - (a) Accorded procedural due process;
  - (b) Observed the essential requirements of the law;
  - (c) Supported its decision by substantial competent evidence of record; and
3. The Application for a conditional use permit is hereby GRANTED subject to the conditions specified herein.

**EFFECTIVE DATE:**

This development order shall not take effect for thirty (30) days following the date it is filed with the City Clerk, and during that time, the conditional use approval granted herein shall be subject to appeal as provided in the City Code. An appeal shall stay the effectiveness of this development order until said appeal is resolved.

\_\_\_\_\_  
Date

\_\_\_\_\_  
George Garrett  
Director of Planning

This Development Order was filed in the Office of the City Clerk of this \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Diane Clavier, City Clerk

## NOTICE

Under the authority of Section 102.79(c) of the City of Marathon Land Development Regulations, this development order shall become null and void with no further notice required by the City, unless a business license has been issued for the use or a complete building permit application for site preparation and building construction with revised plans as required herein is submitted to the City of Marathon Building Official within one (1) year from the date of conditional use approval, or the date when the Department of Community Affairs waives its appeal and all required certificates of occupancy are procured with three (3) years of the date of this development order is approved by the City Council.

In addition, please be advised that pursuant to Chapter 9J-1, Florida Administrative Code, this instrument shall not take effect for forty-five (45) days following the rendition to the Florida Department of Community Affairs. During that forty-five days, the Florida Department of Economic Opportunity may appeal this instrument to the Florida Land and Water Adjudicatory Commission, and that such an appeal stays the effectiveness of this instrument until the appeal is resolved by agreement or order.

## **CERTIFICATE OF SERVICE**

A true and correct copy of the above and foregoing Resolution was furnished, via U.S. certified mail, return receipt requested, addressed to Read Marathon, LLC – 4601 Ponce de Leon Blvd., Coral Gables, FL 33146 on this \_\_\_\_ day of \_\_\_\_\_, 2019.

*Applicant name: Midway Specialty Care Center, Inc. 3255 S US 1, Fort Pierce, FL 34982*

*Property owner: READ MARATHON, LLC. 4601 Ponce de Leon Blvd. Coral Gables, FL 33146*

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Diane Clavier, City Clerk