

## CITY COUNCIL AGENDA STATEMENT



**Meeting Date:** January 14, 2020  
**From:** George Garrett, Planning Director  
**To:** Honorable Mayor and Council Members  
**Through:** Chuck Lindsey, City Manager

**Agenda Item:** Consideration Of A Request By Marathon Land Holdings 3, LLC (Serenity Cove) For A Conditional Use Permit and Development Agreement Pursuant to Chapter 102, Articles 8 and 13 Of The City of Marathon Land Development Regulations (LDRs) Entitled “Development Agreement” And “Conditional Use Permits” Respectively, Seeking For The Development Of Three Undeveloped Lots Through The Proposed Development Of Townhomes And Commercial Uses On Property Located at 12550 Overseas Highway, Which Is Legally Described As Township 66, Section 5, Range 33; PT Lots; 3, Fat Deer Key, Marathon, Florida; Having Real Estate Numbers 00100280-000000, 00100620-000000 and 00100630-000000. Nearest Mile Marker 54.5.

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### **RECOMMENDATION:**

The Planning Commission met on January 28, 2019, forwards a unanimous recommendation of conditional approval of the mixed use Residential and Commercial project known as Serenity Cove to the City Council. The proposed conditions of approval are listed below.

#### Conditions of Approval

- 1) The density and intensity proposed and approved for the project depend on the acquisition of a parcel from FDOT of approximately 6,600 square feet. Before permit approval, the acquisition of the additional property must have been completed.
- 2) If the project is found to have any effect on the Eastern Indigo Snake Habitat, then the prescribed protection measures must be undertaken, and the information poster posted on site plan.
- 3) All native vegetation found on site must be protected in one of three ways:
  - Vegetation will be left in place;
  - Vegetation will be transplanted on site;
  - Vegetation will be mitigated for commensurate with the City of Marathon Land Development Regulations, Chapter 106 of the Code.
- 4) The applicant will obtain approval of final landscaping showing the proper treatments and buffers, including the appropriate treatment types and trees in coordination with the City Biologist before project is permitted. Said plan will indicate the location and required mitigation/transplantation of all native trees on the site. This will require a tree survey at time of building permit application;

- 5) A detailed lighting plan must be submitted before permit issuance;
- 6) Clear sight triangles must be shown on the site plan at time of building permit issuance.
- 7) The applicant will obtain sign permits for any signs erected on the property, as required under the Code;
- 8) All Parking Requirements shall be met and spaces, including those for handicapped occupancy must be of the proper dimensions.
- 9) Provision for minimum bicycle parking
- 10) All signs will be reviewed and approved for compliance with the City of Marathon LDRs.
- 11) A Final Site Plan must be submitted showing the buildings meeting the required setbacks;
- 12) The applicant will provide fire protection plans in accordance with fire protection requirements as outlined by the City Fire Marshal;
- 13) The applicant will meet all floodplain related requirements as part of the Building Permit process;
- 14) The Applicant must obtain and transfer the affordable housing units in excess of what the City has recognized as legally established on the property, to be transferred via the Transfer of Building Rights (TBR's), BPAS process, or any other legally established process prior to building permit issuance. THE APPROVAL OF THE REQUESTED CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT AMENDMENTS DO NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF ANY MARKET RATE RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT.
- 15) Dwelling units shall contain less than or equal to 1,800 square feet of habitable space. Occupancy of affordable housing units is limited to those meeting the following income requirements:
  - Very-low-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 50 percent of the median adjusted gross annual income for households within the county;
  - Low-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 80 percent of the median adjusted gross annual income for households within the county;
  - Median-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 100 percent of the median adjusted gross annual income for households within the county;
  - Moderate-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 120 percent of the median adjusted gross annual income for households within the county;
  - Middle-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 160 percent of the median adjusted gross annual income within the county;
- 16) The monthly rent shall not exceed 30 percent of that amount which represents the income bracket of the household, i.e., very low, low, median, moderate or middle, divided by 12. In no case shall the monthly rent exceed 160 percent of the median adjusted gross annual income for households within the county, divided by 12.

- 17) The applicant will obtain City approval of the stormwater management system prior to Building Permit issuance;
- 18) The applicant will obtain City approval for wastewater management through the City's Wastewater Utility;
- 19) The applicant will obtain the required permits to fully enclose and screen the dumpster in accordance with Section 107.39;
- 20) The applicant will obtain any required permits from SFWMD and FDOT prior to building permit issuance;
- 21) As a condition of development, the developer and the City shall enter into a Development Agreement, in addition to compliance with all other provisions of the Code.
- 22) The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.

**APPLICANT/ OWNER:** Marathon Land Holdings 3, LLC

**AGENT:** Jorge Cepero/Marathon Land Holdings 3, LLC

**LOCATION:** The project site is located at 12550 Overseas Highway at nearest mile marker 53.5. See Figure 1.

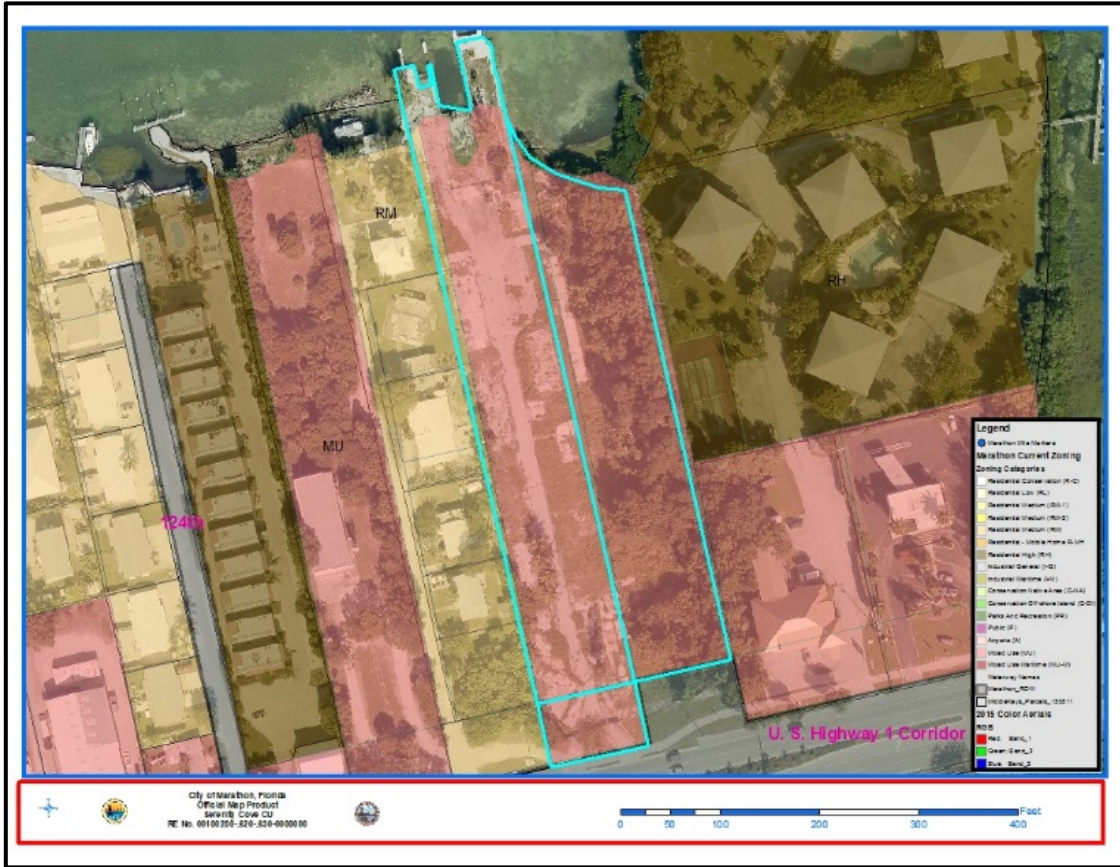
**Figure 1**  
**Project Site**







**Figure 3  
Zoning Map**



**LOT SIZE:**

Total acreage 2.933 acres or 127,800 square feet, including the acquired FDOT parcel (not shown on tax roll yet).

**SURROUNDING ZONING AND USES:**

	<u><i>Zoning</i></u>	<u><i>Use</i></u>
<b>North</b>	Conservation-Native Area; and Conservation -Offshore Island	Vaca Key Rock
<b>East</b>	Mixed Use, Residential Medium, and Residential High	Gulfpointe Condos, Keys Federal Credit Union, and Iberia Bank
<b>South</b>	Mixed Use, Residential Medium, and Conservation Native Area	Bonefish Bay, The Art Studio, and Coral Lagoon Boat House Marina
<b>West</b>	Mixed Use, Residential Medium, and	Island Gift Shop, Bougainvillea Villas Condos, and Ce-Del & Hawaiian Village

	Residential High	Subdivisions
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**EXISTING CONDITIONS:**

The project site consists of three existing undeveloped lots and a parcel currently being acquired from FDOT. Cumulatively, these four parcels make up the project site that is planned for future development. The parcels are currently vacant or undeveloped, but were formerly the location of the Longhorn Lodge Resort, which was severely damaged during Hurricane Wilma and was subsequently demolished.

**PROPOSED REDEVELOPMENT:**

Residential Units: 42 Affordable Workforce Housing Units.

- Minor Architectural Features, as provided for in Chapter 107, Section 107.41 (Height – Exceptions to Limits), will come into to play for this project. The Parking and living space height of the building will not exceed thirty-seven (37’).
- However, much like the architecture of the Courtyard Marriott, stairway parapets and roof level mechanical areas (screened as required), will exceed thirty-seven feet (37’)

Commercial Floor Area: Up to 4,374 square feet commercial at 75% FAR (on U.S. 1 frontage).

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

**Figure 4**  
**Proposed Redevelopment Site Plan**



**BACKGROUND:**

The proposed project is a redevelopment of residential and commercial property utilizing three existing undeveloped lots and a contiguous parcel purchased from FDOT. Prior to Hurricane Wilma, these properties were commercially developed with a motel complex and marina facility known as “The Longhorn Lodge Resort”. All four parcels are zoned Mixed Use. This report addresses the Conditional Use application. Associated with the Conditional Use Permit, will be the simultaneous approval of a Development Agreement.

With Transfers of Building Rights (TBRs), both to and from the Courtyard Marriott project completed in 2012, the Serenity Cove site currently holds entitlements for seven (7) market rate residential units and 28,024 square feet of commercial space.

Previous approvals for this site under the current owner (Resolutions 2014-128 & 2014-129) will become null and void with the approval of this project plan. Those approvals allowed seventeen (17) market rate units and up to 4,116 square feet of Commercial square footage (@ 60 % FAR).

**All condition 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 Approval are outlined in Chapter 102, Article 13, Conditional Use Permits, 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 U.S. 1 Corridor, in an effort to recognize the role of U.S. 1 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 Undeveloped Land 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 Market Rate residential units are allowed at a maximum of 6 units per acre and Affordable residential units are allowed at a maximum of 15 units per acre, at numbers greater than three (3) are only approved through the Conditional Use Permit process. 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 18 residential units. Table 103.15.3 further qualifies the allowed range of intensities based on the intensity of retail use.

<b>Development Type</b>	<b>Proposed</b>	<b>Maximum Allowed</b>
<b>Residential Units</b>		
Market Rate	0	17*
Affordable	42	42*
<b>Commercial Floor Area</b>		
Low Intensity (75% FAR)	4,374	4,374

- Market Rate OR Affordable, or a combination, but not both.



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 development of an existing mixed use district into the same conditional use, which is consistent with the Mixed Use classification.

The existing land use pattern in the project vicinity consists of commercial use and residential uses (mixed uses) to the east; commercial uses, residential uses, and conservation of native area to the south; commercial and residential uses to the west; and (conservation-off-shore island) Vaca Key Rock to the north.

Otherwise, the development of the site will result in significant improvement to the development site, including upgraded landscaping, stormwater management, and architecture. The improvements are expected to have a positive benefit on the surrounding uses and the City of Marathon.

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 does not adversely affect the health, and welfare of the public. No new impacts are expected to arise with the development.

Plans submitted with the project are suitable for the Conditional Use Approval as they relate to Chapter 107, Article 12, 100 Year Floodplain. Final review of floodplain compliance will occur as part of building permit issuance.

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 Undeveloped Land. A site inspection showed the adjacent property to the west with partial scarification. A small portion of the property is recognized as having remnants of low hardwood hammock, Florida Thatch Palms

being the dominant trees in the hammock. Figure 5 shows that this portion falls under the category of undeveloped land, because there is no building developed on it. The proposed development is encroaching more on this area than the previously construction.

In addition, though found within a ‘Species Focus Area’ as defined in the settlement for FEMA-FWS lawsuit, “undeveloped land” falls out of the consideration in the species assessment guides thus having “no impact” on the species concern, the Eastern Indigo Snake.

**Figure 5**  
**Focus Area Habitat**



Further improvements to water quality are expected to arise from stormwater improvements to the site, which should provide up-to-date treatment and eliminate any existing discharges to surface waters. The applicant has submitted preliminary stormwater plans suitable for the Conditional Use Application, and final plans are required prior to building permit issuance.

Site landscaping will be selected from Table 107.68.1, Appendix A, Article 8, Section 107 of the City of Marathon Code of Ordinances. The native vegetation will improve the environmental quality of the site and reduce irrigation needs.

Therefore, it is staff’s opinion that the request is ***in compliance*** with the requirements of these sections so long as the development is conditioned on provision of final landscaping and mitigation plans subject to approval of the City Biologist and final stormwater plans subject to City approval.

- If the redevelopment is found to have any effect on the Eastern Indigo Snake Habitat, then the prescribed protection measures must be undertaken, and the information poster posted on site.
- All native vegetation found on site must be protected in one of three ways:

- Vegetation will be left in place;
- Vegetation will be transplanted on site;
- Vegetation will be mitigated for commensurate with the City of Marathon Land Development Regulations, Chapter 106 of the Code.

**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 has provided a breakdown of the proposed occupancy of the onsite buildings. No traffic study has been submitted, however, “The Longhorn Lodge Resort” would have generated significantly more traffic as a resort development than is expected of a forty seven (47) unit residential development with modest commercial space on U.S. 1. The Level of Service for U.S. 1 is a Level of Service A. Any change in traffic generation, positive or negative would not impact the overall LOS for U.S. 1 in the project area. Ingress and egress from the site is sufficient in staff’s opinion to appropriately handle traffic from the site. A left hand turn lane exists from the eastbound direction of U.S. 1. There is adequate clear site for westbound lanes to access the site.

Section 107.43 requires site triangles where the access drive intersects with the street. Clear site triangles must be shown on the site plan at time of building permit issuance.

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

- Clear sight triangles must be shown on the site plan at time of building permit issuance.

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

Parking requirements are outlined in Section 107.47 (Mixed-Use Development Parking Requirements). The following table shows the parking requirement for the commercial uses on the parcel:

Use	Code Citation	Requirement	Spaces Provided
<b>Mixed Use Development,</b> <i>Non Residential</i>	107.47.A	1 parking space for each 500 SF, or fraction thereof, of GFA not in residential uses,	8.2 spaces
		If GFA is less than 5,000 SF, reduce to a min. of one (1) parking space for each 350 SF	11.7 spaces
Required			<b>19</b>
ADA		1 per twenty five (25) spaces	<b>1</b>
<b>Mixed Use Development,</b> <i>Residential</i>	107.47.B	(22) One space per one (1) bed unit	22
		(20) One and a half (1 ½) spaces per two (2) bed unit	30
Required			<b>55</b>
ADA		1 per twenty five (25) spaces	<b>2</b>
<b>Public and Civic Uses,</b> <b>Marina,</b> <i>Dry slip storage</i>	107.46.1	1 per 5 dry slips and/or 1 per 2 wet slips, plus required parking for accessory uses	<b>9</b>
		<i>45 Bays proposed</i>	
ADA		1 per twenty five (25) spaces	<b>1</b>
Total Required		19 + 55 + 9 =	83
		1 + 2 + 1 (ADA) = 3 + 83	87
Total Provided			110



Section 107.52 includes a requirement that one handicapped space be provided for every 25 spaces required. For 83 spaces, three (3) handicapped spaces are required. Four (4) handicapped spaces are provided. Thus, the Applicant has provided a total of 110 spaces, twenty three more than is 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 will be modified by the applicant to provide the necessary three additional spaces, as well as providing the correct dimensions for the handicapped spaces.

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. The developer has proposed a bike rack for the project.

The developer proposes provisions and arrangements for off-street parking and loading areas, with particular attention to ingress and egress, automobile, bicycle, and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe.

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

- Handicapped spaces must be the proper dimensions
- Provision for minimum bicycle parking

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

The proposed project consists of development of three existing undeveloped lots that are planned for future development. New lighting will be necessary for this project. The applicant has not provided detailed lighting plans which conform to the letter with the City of Marathon LDR's. The applicant's detailed plans should achieve the net result of no detrimental noise, glare or odors being generated by any of the uses.

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

- A detailed lighting plan must be submitted before the project is permitted.

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

Section 107.39 requires that all dumpsters and recycling bins be fully enclosed and screened. The site plan indicates that the dumpster is screened.

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

## **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: The applicant will provide wastewater and sewage collection and disposal via an existing onsite Sanitary Sewer Lift Station, which is compliant to 2010 standards approved by the Florida Department of Environmental Protection. The property is already connected to the City sewer system. This project will constitute a minor expansion, resulting in a de minimus impact.
- Water: The Florida Keys Aqueduct Authority will provide potable water for the facility.
- Solid Waste: Marathon Garbage Service will provide solid waste disposal.
- Surface Water: The applicant has provided stormwater design information suitable for the Conditional Use application review which demonstrates compliance with City standards. However, a final stormwater plan will be required for building permit issuance.
- Recreation and Open Space: This redevelopment will have a de minimis impact on recreation and open space.
- Roadways: The applicant is redeveloping the site with a higher intensity than was contained within the prior development; therefore, a traffic study was completed to analyze the impact on transportation facilities.
- 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.

- City approval is required for the stormwater management system prior to Building Permit Approval.
- City approval of the modified connection to the City Wastewater Utility will be required.

## **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 to the west by properties zoned RM, requiring a 'high' boundary buffer. Table 107.70.2 establishes a 20 foot minimum width buffer. The subject parcel is also bordered to the east by properties zoned RH, requiring a 'medium' boundary buffer and requires a 15 foot minimum width buffer. The final landscape plans must be approved by the City Biologist.

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 proposed landscape plan meets the minimum requirements. According to the Code, the landscape treatment area shall be planted within a ten-foot wide buffer predominantly with shrubs and native canopy trees of at least two (2) inches caliper at breast height, approximately 50 feet on center. A minimum of four (4) understory trees per 240 feet of frontage, or fraction thereof, shall be planted in and about access points. In addition, smaller accent trees shall be planted every 120 feet and staggered midway between the large canopy trees. Canopy and understory trees shall be placed so as to provide at least 50 percent

canopy coverage of sidewalks along U.S. 1, except where prohibited by overhead utility restrictions or as required to preserve water view when traveling along the highway. Additionally all parking not located to the rear of buildings shall be screened from the right-of-way by a landscaped buffer along US1, including a continuous hedge or combination hedge and earth berm providing a three-foot high visual screen within two (2) years of planting.

Section 107.71 C. requires that all multi-family and nonresidential developments provide one of two types of buffers along the entire street frontage. The project is adjacent to US 1 to the south. The proposed 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.

Table 106.28.1 outlines setbacks requirements for a principle structure 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. A resource buffer distance is set at a 20 foot minimum.

This plan shows a 25’ setback on the front yard, 10’ with a total of 15’ setback on the eastern and western side yards, 30’ setback on shoreline, and 10’ rear yard setback from accessory structure.

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’.

Setback	Required	Required Landscape	Proposed	Compliant
Front	0-30	10	25	y
East Side	0-10	15	10	y
West Side	0-10	20	10	y
Shoreline	10	N/A	30	y

Parking area landscaping is required by Section 107.66 of the Code. Unique site conditions allow for an alternative parking landscape plan to be submitted. The City Biologist has reviewed the submitted parking area landscape plan and has found it to be in compliance with the condition that two large canopy trees be planted between the three buildings near the rear of the property, so that they may provide future coverage of the paved parking area.

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

- A Final Landscape Plan must be submitted showing the proper treatments and buffers, including the appropriate treatment types and trees.
- A Final Site Plan must be submitted showing the buildings meeting the required setbacks.

**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; however, signs for the project will be reviewed prior to issuance of a building permit according to Chapter 107, Article 7, Signs, particularly for the non-residential portion of the project.

Article 107.54 establishes criteria for lighting, including light pole light limitations and other technical criteria. Final lighting plans will be submitted along with final landscaping plans, and will include verification from the landscape architect that all provisions of the article are met.

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 parcel is generally scarified; therefore, a twenty percent open space requirement applies. There is a fringe of hammock vegetation interspersed with quite a number of invasive exotic species along the eastern side of the project site. To the greatest extent possible, the Applicant will be required to protect Regulated Trees, pursuant to Chapter 106, Article 2 of the LDRs. According to calculations provided by the applicant, 54,450 square feet of pervious area (including landscape area), 42.7% is provided as green space. This meets 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 development of long standing existing uses in an area of the City which is relatively dense and intense. Adjacent uses include a commercial and residential establishments. A development of the existing residential and commercial 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 are at 37'.

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

**10. Any special requirements set forth in the LDRs for the particular use involved.**

Section 104.48 Residential Dwelling Units contains special requirements.



The following criteria are applicable to this redevelopment:

- As a condition of development, the developer and the City shall enter into a Development Agreement, in addition to compliance with all other provisions of the Code.
- Minor Architectural Features, as provided for in Chapter 107, Section 107.41 (Height – Exceptions to Limits), will come into to play for this project. The Parking and living space height of the building will not exceed thirty-seven (37’). However, much like the architecture of the Courtyard Marriott, stairway parapets and roof level mechanical areas (screened as required), will exceed thirty-seven feet (37’)

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

### **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 development consists of the replacement and enhancement of a long standing existing commercial and residential 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 Commission forwards a unanimous recommendation of conditional approval of the mixed use Residential and Commercial project known as Serenity Cove to the City Council. The proposed conditions of approval are listed below.

#### **Conditions of Approval**

- 1) The density and intensity proposed and approved for the project depend on the acquisition of a parcel from FDOT of approximately 6,600 square feet. Before permit approval, the acquisition of the additional property must have been completed.
- 2) If the project is found to have any effect on the Eastern Indigo Snake Habitat, then the prescribed protection measures must be undertaken, and the information poster posted on site plan.
- 3) All native vegetation found on site must be protected in one of three ways:
  - Vegetation will be left in place;
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- Vegetation will be mitigated for commensurate with the City of Marathon Land Development Regulations, Chapter 106 of the Code.
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  - 10) All signs will be reviewed and approved for compliance with the City of Marathon LDRs.
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  - 12) The applicant will provide fire protection plans in accordance with fire protection requirements as outlined by the City Fire Marshal;
  - 13) The applicant will meet all floodplain related requirements as part of the Building Permit process;
  - 14) The Applicant must obtain and transfer the affordable housing units in excess of what the City has recognized as legally established on the property, to be transferred via the Transfer of Building Rights (TBR's), BPAS process, or any other legally established process prior to building permit issuance. THE APPROVAL OF THE REQUESTED CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT AMENDMENTS DO NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF ANY MARKET RATE RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT.
  - 15) Dwelling units shall contain less than or equal to 1,800 square feet of habitable space. Occupancy of affordable housing units is limited to those meeting the following income requirements:
    - Very-low-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 50 percent of the median adjusted gross annual income for households within the county;
    - Low-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 80 percent of the median adjusted gross annual income for households within the county;
    - Median-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 100 percent of the median adjusted gross annual income for households within the county;
    - Moderate-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 120 percent of the median adjusted gross annual income for households within the county;

- Middle-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 160 percent of the median adjusted gross annual income within the county;
- 16) The monthly rent shall not exceed 30 percent of that amount which represents the income bracket of the household, i.e., very low, low, median, moderate or middle, divided by 12. In no case shall the monthly rent exceed 160 percent of the median adjusted gross annual income for households within the county, divided by 12.
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  - 21) As a condition of development, the developer and the City shall enter into a Development Agreement, in addition to compliance with all other provisions of the Code.
  - 22) The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.







**SERENITY COVE**  
 WORKFORCE HOUSING SITE PLAN AMENDMENT  
 12550 OVERSEAS HWY MARATHON  
 MONROE COUNTY FLORIDA  
 ORIGINAL SITE PLAN APPROVAL OCTOBER 28, 2014

**pd**

**PRIME DESIGN  
 ASSOCIATES**  
 ARCHITECTS OF FLORIDA, INC. (FPCA)  
 AA 26002234

4611 SHERIDAN ST. SUITE 400  
 HOLLYWOOD FLORIDA 33021  
 VOICE: 954.981.8000  
 FAX: 954.981.8740

THIS PLAN IS FOR THE  
 SERENITY COVE WORKFORCE HOUSING DEVELOPMENT.  
 THE USER OF THIS PLAN IS TO BE RESPONSIBLE FOR  
 VERIFYING THE ACCURACY OF ALL INFORMATION  
 AND DATA PROVIDED TO THE ARCHITECT AND FOR  
 OBTAINING ALL NECESSARY PERMITS AND APPROVALS  
 FROM THE APPROPRIATE AGENCIES. THE ARCHITECT  
 DOES NOT WARRANT THE ACCURACY OF ANY  
 INFORMATION PROVIDED TO THE ARCHITECT OR  
 THE COMPLETION OF ANY PERMITS OR APPROVALS  
 REQUIRED FOR THE DEVELOPMENT. THE ARCHITECT  
 IS NOT RESPONSIBLE FOR ANY DELAYS OR  
 COSTS INCURRED BY THE USER OF THIS PLAN  
 DUE TO ANY SUCH DELAYS OR COSTS.

**Serenity Cove  
 12550 Overseas Hwy  
 Marathon Florida**

104891820000  
 No. \_\_\_\_\_ Date \_\_\_\_\_

THIS PLAN AND ALL INFORMATION CONTAINED  
 HEREIN ARE THE PROPERTY OF PRIME DESIGN  
 ASSOCIATES AND ARE NOT TO BE REPRODUCED  
 OR TRANSMITTED IN ANY FORM OR BY ANY  
 MEANS, ELECTRONIC OR MECHANICAL,  
 INCLUDING PHOTOCOPYING, RECORDING,  
 OR BY ANY INFORMATION STORAGE AND  
 RETRIEVAL SYSTEM, WITHOUT THE WRITTEN  
 PERMISSION OF PRIME DESIGN ASSOCIATES.

Cover Sheet

Sheet No. 1 of 12 (12 of 12)  
 Project No. 20080000  
 Project Name SERENITY COVE  
 Date 2-28-14  
 Designer P.D.

**A000**

Scale  
 3/8" = 1'-0" (AS SHOWN)



1 East Site Elevation  
1:24



2 West Site Elevation  
1:24



4 South Site Elevation (Overseas Hwy)  
1:24



3 North Site Elevation (Bay of Florida)  
1:24



5 Site Aerial View From Overseas Hwy



6 Site Aerial View From Bay of Florida

**pd**  
PRIME DESIGN  
ASSOCIATES  
ARCHITECTURE PLANNING DESIGN  
AA 28882234

468 SHERIDAN ST. SUITE 403  
HOLLYWOOD FLORIDA 33021  
VOICE: 954.262.8700  
FAX: 954.262.8748

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Serenity Cove  
12550 Overseas Hwy  
Marathon Florida

Revision Schedule

No.	Description	Date

Site Illustrations & Perspectives

Client Name: Kinesha LLC/PM/CS, LLC  
Project Number: 19052018  
Project Name: Serenity Cove  
Date: 2018.01.01  
Checked by: CS

**A002**  
Scale: 1" = 200'  
DISCIPLINE: ARCHITECTURE

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2020-XX**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA APPROVING A REQUEST BY MARATHON LAND HOLDINGS 3, LLC (SERENITY COVE) FOR A CONDITIONAL USE PERMIT PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (LDRs) ENTITLED “CONDITIONAL USE PERMITS” PROPOSING THE DEVELOPMENT OF THREE UNDEVELOPED LOTS WITH THE DEVELOPMENT OF TOWNHOMES AND COMMERCIAL USES ON PROPERTY LOCATED AT 12550 OVERSEAS HIGHWAY, WHICH IS LEGALLY DESCRIBED AS TOWNSHIP 66, SECTION 5, RANGE 33; PT LOTS 3, FAT DEER KEY, MARATHON, FLORIDA; HAVING REAL ESTATE NUMBERS 00100280-000, 00100620-00000 AND 00100630-000000. NEAREST MILE MARKER 54.5.**

**WHEREAS**, Marathon Land Holdings 3, LLC (Serenity Cove) (The “Applicant”) filed an Application on September 13<sup>th</sup>, 2018 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 redevelopment of forty two (42) affordable rate apartments and 4,374 square feet of low intensity commercial space (75% FAR) on a site previously known as Longhorn Lodge Resort; 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 28<sup>th</sup> day January, 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 8 of the LDRs; and

**WHEREAS**, and on the 14<sup>th</sup> day of January, 2020 and again on the 11<sup>th</sup> day of February, 2020, the City Council (the “Council”) conducted properly advertised public hearings (the “Public Hearings”) 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; and

**WHEREAS**, the purpose of the Conditional Use Permit is 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 proper location and with surrounding land uses and on the basis of all zoning, subdivision and other ordinances applicable to the proposed location and zoning district,

**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 2020-1, a copy of which is attached hereto as Exhibit "A", granting a Conditional Use Permit to Marathon Land Holdings 3, LLC (Serenity Cove), 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 FEBRUARY, 2020.**

**THE CITY OF MARATHON, FLORIDA**

---

**Steve Cook, Mayor**

AYES:

NOES:

ABSENT:

ABSTAIN:

**ATTEST:**

---

Diane Clavier, City Clerk

(City Seal)

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

---

David Migut, City Attorney

**EXHIBIT “A”  
CITY OF MARATHON, FLORIDA  
DEVELOPMENT ORDER # 2020-XXX**

**A DEVELOPMENT ORDER OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA OF A REQUEST BY MARATHON LAND HOLDINGS 3, LLC (SERENITY COVE) FOR A CONDITIONAL USE PERMIT PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (LDRs) ENTITLED “CONDITIONAL USE PERMITS” PROPOSING THE DEVELOPMENT OF THREE UNDEVELOPED LOTS WITH THE DEVELOPMENT OF TOWNHOMES AND COMMERCIAL USES ON PROPERTY LOCATED AT 12550 OVERSEAS HIGHWAY, WHICH IS LEGALLY DESCRIBED AS TOWNSHIP 66, SECTION 5, RANGE 33; PT LOTS 3, FAT DEER KEY, MARATHON, FLORIDA; HAVING REAL ESTATE NUMBERS 00100280-000, 00100620-00000 AND 00100630-000000. NEAREST MILE MARKER 54.5.**

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**WHEREAS**, the applicant has proposed the redevelopment of forty two (42) affordable rate apartments and 4,374 square feet of low intensity commercial space (75% FAR) on a site previously known as Longhorn Lodge Resort; 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

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**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; and

**WHEREAS**, the purpose of the Conditional Use Permit is 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 proper location and with surrounding land uses and on the basis of all zoning, subdivision and other ordinances applicable to the proposed location and zoning district,

**FINDINGS OF FACT:**

1. The Applicant has proposed the development of forty two (42) affordable rate apartments and 4,374 square feet of low intensity commercial square footage; 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) The density and intensity proposed and approved for the project depend on the acquisition of a parcel from FDOT of approximately 6,600 square feet. Before permit approval, the acquisition of the additional property must have been completed.

- 2) If the project is found to have any effect on the Eastern Indigo Snake Habitat, then the prescribed protection measures must be undertaken, and the information poster posted on site plan.
- 3) All native vegetation found on site must be protected in one of three ways:
  - Vegetation will be left in place;
  - Vegetation will be transplanted on site;
  - Vegetation will be mitigated for commensurate with the City of Marathon Land Development Regulations, Chapter 106 of the Code.
- 4) The applicant will obtain approval of final landscaping showing the proper treatments and buffers, including the appropriate treatment types and trees in coordination with the City Biologist before project is permitted. Said plan will indicate the location and required mitigation/transplantation of all native trees on the site. This will require a tree survey at time of building permit application;
- 5) A detailed lighting plan must be submitted before permit issuance;
- 6) Clear sight triangles must be shown on the site plan at time of building permit issuance.
- 7) The applicant will obtain sign permits for any signs erected on the property, as required under the Code;
- 8) All Parking Requirements shall be met and spaces, including those for handicapped occupancy must be of the proper dimensions
- 9) Provision for minimum bicycle parking
- 10) All signs will be reviewed and approved for compliance with the City of Marathon LDRs.
- 11) A Final Site Plan must be submitted showing the buildings meeting the required setbacks;
- 12) The applicant will provide fire protection plans in accordance with fire protection requirements as outlined by the City Fire Marshal;
- 13) The applicant will meet all floodplain related requirements as part of the Building Permit process;
- 14) The Applicant must obtain and transfer the affordable housing units in excess of what the City has recognized as legally established on the property, to be transferred via the Transfer of Building Rights (TBR's), BPAS process, or any other legally established process prior to building permit issuance. **THE APPROVAL OF THE REQUESTED CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT AMENDMENTS DO NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF ANY MARKET RATE RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT.**
- 15) Dwelling units shall contain less than or equal to 1,800 square feet of habitable space. Occupancy of affordable housing units is limited to those meeting the following income requirements:
  - Very-low-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 50 percent of the median adjusted gross annual income for households within the county;
  - Low-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 80 percent of the median adjusted gross annual income for households within the county;
  - Median-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 100 percent of the median adjusted gross annual income for households within the county;
  - Moderate-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 120 percent of the median adjusted gross annual income for households within the county;



- Middle-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 160 percent of the median adjusted gross annual income within the county;
- 16) The monthly rent shall not exceed 30 percent of that amount which represents the income bracket of the household, i.e., very low, low, median, moderate or middle, divided by 12. In no case shall the monthly rent exceed 160 percent of the median adjusted gross annual income for households within the county, divided by 12.
  - 17) The applicant will obtain City approval of the stormwater management system prior to Building Permit issuance;
  - 18) The applicant will obtain City approval for wastewater management through the City's Wastewater Utility;
  - 19) The applicant will obtain the required permits to fully enclose and screen the dumpster in accordance with Section 107.39;
  - 20) The applicant will obtain any required permits from SFWMD and FDOT prior to building permit issuance;
  - 21) As a condition of development, the developer and the City shall enter into a Development Agreement, in addition to compliance with all other provisions of the Code.
  - 22) The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.

**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 \_\_\_\_\_, 2020.

\_\_\_\_\_  
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 4651 Sheridan St. Suite 480, Hollywood, FL 33021 this \_\_\_\_ day of \_\_\_\_\_, 2020.

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