

CITY COUNCIL AGENDA STATEMENT



**Meeting Date:** January 12, 2021  
**To:** Honorable Mayor and Members of City Council  
**From:** Brian Shea, Planning Director  
**Through:** George Garrett, City Manager

**Agenda Item:** Resolution 2021-01, Consideration Of A Request By Brian Thorton Of Racetrac Petroleum, 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 5,411 Sq. Ft. Convenience Store With 16 Self-Service Fuel Positions And 3 High Capacity Diesel Delivery Positions On Property Located At 3896 Overseas Highway, Which Is Legally Described As Lot 1, The South 200 Feet Of Lot 2, The South 200 Feet Of Lot 3, Square 3 And Pt Of Govt Lot 3 Marathon Beach Subdivision PB 2-16, Marathon, Florida; Having Real Estate Number 00336770-000000.

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**APPLICANT/ OWNER:** Brian Thorton, Racetrac Petroleum  
Andrea Tecca, trustee of Ban Stephen C Family Trust

**AGENT:** L. Steven Hurley

**LOCATION:** The project sites are located at 3896 Overseas Highway nearest mile marker 49. See Figure 1.

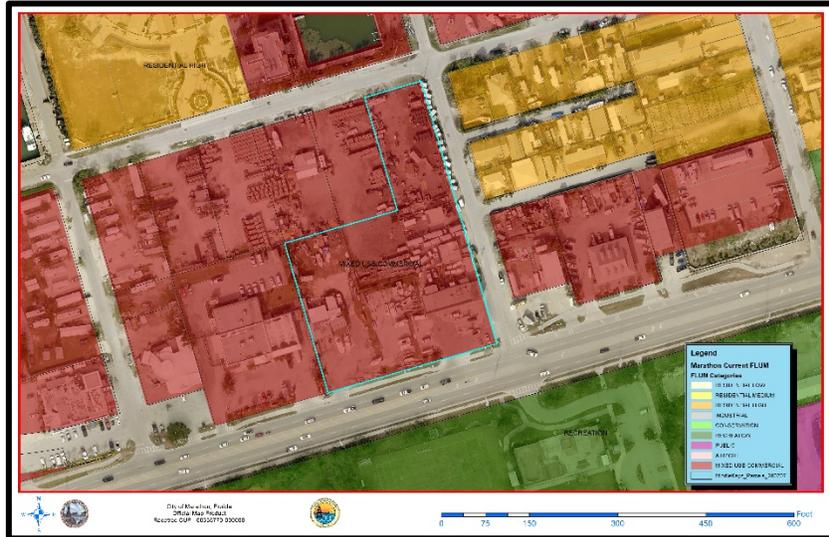
**Figure 1**  
**Project Site**



**REQUEST:** A Conditional Use Permit for the authorization of development of the subject property having the real estate number 00336770-000000.

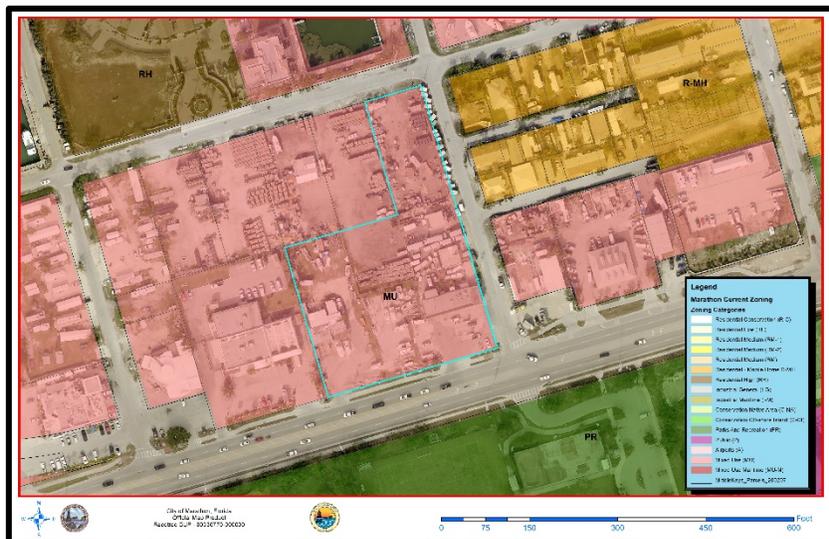
**FUTURE LAND USE MAP DESIGNATION:**  
Mixed Use Commercial (MUC). See Figure 2.

**Figure 2  
Future Land Use Map**



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

**Figure 3  
Zoning Map**



**LOT SIZE:**  
Total acreage 2.28 acres or 99,507 square feet.

**SURROUNDING ZONING AND USES:**

	<u><i>Zoning</i></u>	<u><i>Use</i></u>
<b>North</b>	Mixed Use & Residential High	Marlin Bay & Boatworks
<b>East</b>	Mixed Use & Residential Mobile Home	Lincoln Manor Neighborhood, AmeriGas & Third Generation Plumbing
<b>South</b>	Parks and Recreation	Community Park
<b>West</b>	Mixed Use	Trap storage, US Border Patrol, Takara/Upper Crust

**EXISTING CONDITIONS:**

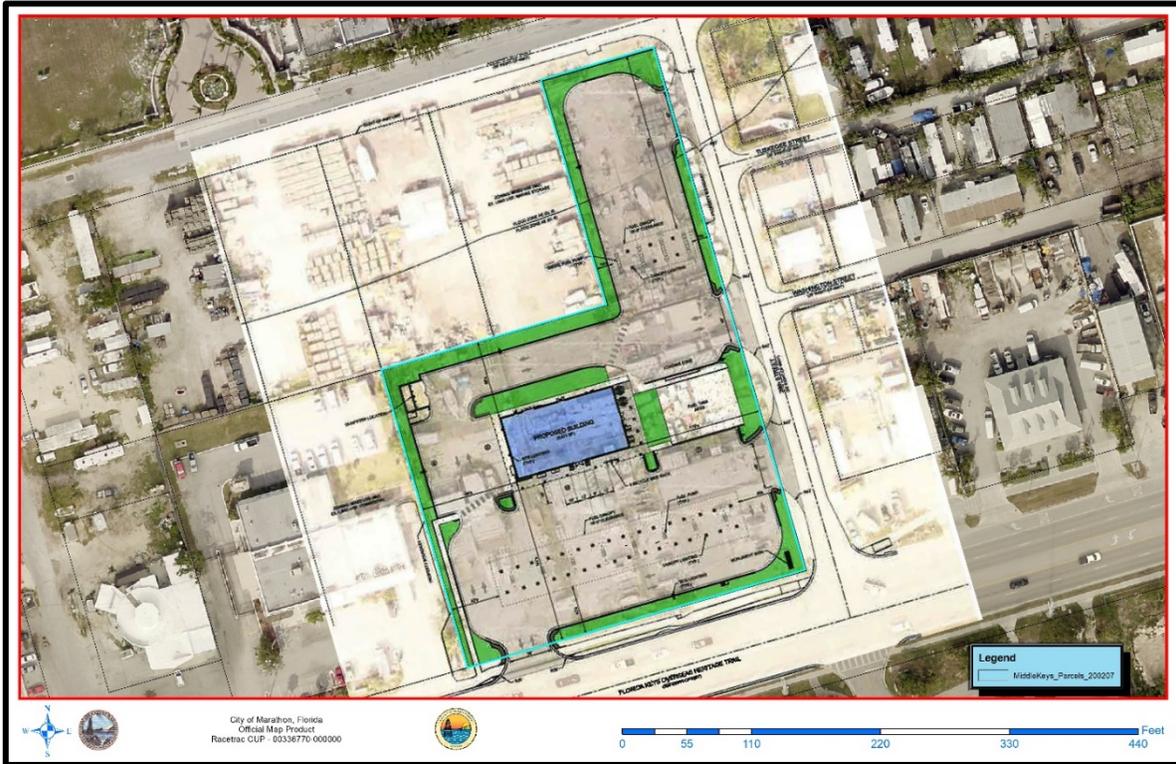
The project site consists of a developed lot with commercial structures on US1. Existing uses include Chevron gas station, Fairway Market, U-Haul Rentals, Bob’s Tires, and South Seas Boat Trailers.

**PROPOSED REDEVELOPMENT:**

An approximately 5,411 square foot convenience store and gas station.

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

**Figure 4  
Proposed Redevelopment Site Plan**



**BACKGROUND:**

The proposed project is the redevelopment of the existing gas station and convenience store. This report addresses the Conditional Use application associated with the Conditional Use Permit.

**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 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 development of existing 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 a convenience store is permitted as of right, but fuel sales 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 103.15.3 in the Land Development Regulations qualifies the allowed range of intensities based on the intensity of retail use.

Development Type	Proposed	Maximum Allowed
<b>Commercial Floor Area</b>		
High Intensity (.25% FAR)	5,411 square feet	24,876 square feet

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 to the east; recreational uses to the south; commercial uses to the west; and residential uses directly north.

Otherwise, the development of the site will result in significant improvement to the site development quality, 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. The impacts on surrounding properties as a result of the proposed development should be positive.

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.

The applicant is coordinating with the Fire Department on the best location for an additional fire hydrant to service the portion of the property along 39<sup>th</sup> street.

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

- All conditions of the Fire Marshal must be met prior to permit issuance.

**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 parcel is not identified on the Species Focus List and is previously developed.

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.

Phase I and Phase II Environmental Site Assessments have been completed for this property. The applicant has provided these to the City for review (Phase I: 587 pages, Phase II: 421 pages). The Phase I recommended that “based on information collected from the Phase I ESA, ATC recommends a subsurface investigation to evaluate the impact from current and historic gasoline station operations and the historic septic tank usage.”

The Phase II recommended the following actions:

- Based on the results presented in this Phase II ESA, hazardous materials/petroleum products are present in soil underlying the property in concentrations reported above SCTLs. Additional regulatory action under FDEP regulations for the soil at the property would be warranted.

- Based on the results presented in this Phase II ESA, hazardous materials/petroleum products are present in groundwater underlying the property, but in concentrations reported below the GCTLs. Additional regulatory action under FDEP regulations for the ground water at the property would be warranted.

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.

- A final landscaping plan must be approved prior to permit issuance.
- A final stormwater plan must be submitted prior to permit issuance.
- Per the Sustainability and Climate Plan, Land Use and Transportation (LUT) Strategy 4.0, the applicant is encouraged to provide alternative fuel sources. In doing so, the City shall provide incentives, the form of which shall be at the discretion of the City Manager and Planning Director.
- The applicant will obtain any required permits from any and all outside agencies prior to building permit issuance. Copies of approvals, reports, and permits must be provided to the City. This includes but is not limited to DEP, SFWMD, FDOT, EPA approvals.

**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;**

Currently the parcel has access to US1 and access from 39<sup>th</sup> street. Many of these driveways are nonstandard and will be removed with the new redevelopment. The plans show sidewalks linking the building and the Overseas Heritage Trail. The walks are located to reduce conflict points on site. Access is provided to circulate around the structure that meets all required turning radii.

With the increased traffic onto 39<sup>th</sup> street, the applicant is coordinating with Public Works to overlay the existing street with a minimum 1” structural course.

A traffic study was completed comparing the existing convenience store, and gas station, with the proposed gas station and convenience store. For the sake of simplicity, all of the remaining uses on site that will be removed were not included in the calculations. The proposed 449 daily trips would not alter the level of service classification of C for this portion of US1.

Land Use	Weekly AM Peak Hour			Weekly PM Peak Hour			Daily (2-way)
	In	Out	Total	In	Out	Total	
<b>Proposed Gas Station</b>	64	63	127	50	51	101	1042

<b>Existing Gas Station</b>	-19	-19	-38	-21	-21	-42	-593
<b>New Net Trips</b>	+45	+44	+89	+29	+30	+59	+449

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.
- Applicant must overlay the existing street with a minimum 1” structural coarse. This may be done with a standalone right of way permit, or may be included in the overall permit for improvements.
- Plans must show appropriate striping and signage to direct vehicle traffic access from 39<sup>th</sup> street. Larger vehicle turning radii must be shown on the site plan prior to permit issuance.

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

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

<b>Use</b>	<b>Code Citation</b>	<b>Requirement</b>	<b>Spaces Required</b>	<b>Spaces Provided</b>
Convenience store, with or without fuel sales	107.46.1	1 per fueling position, plus 2 per working bay, plus 1 per 200 sq ft of sales area	28	31

The developer proposes provisions and arrangements for off-street parking, 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.

Section 107.48 establishes that development along bike paths must provide bicycle parking. One space is required per ten required parking spaces. The applicant proposes to have three bicycle parking spaces.

Section 107.52 D requires that one ADA compliant space be provided for every 25 required parking spaces. The applicant is proposing two ADA compliant spaces, with a shared access aisle.

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 an existing gas station and convenience store. Exterior lighting must conform to the letter with the City of Marathon LDR's. Currently the U-Haul trucks are being parked in the ROW of 39<sup>th</sup> street. The applicant will provide a denser vegetative buffer along this area to screen the pump stations from the residential neighborhood of Lincoln Manor. 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.
- Denser vegetation and screening will be required along the 39<sup>th</sup> street portion of the property across from the residential neighborhood. Vegetation along the remainder of 39<sup>th</sup> street and US1 shall be in excess of the minimum standards.

### **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 does indicate the dumpster location and provides details for the screening of the dumpsters and compactors.

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

- Prior to permit issuance the dumpster must be shown on site, and must be screened.

### **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 property is currently connected to the City Sewer System. The applicant will provide wastewater and sewage collection and disposal via connecting to City wastewater system. This project should not constitute additional impacts to the City's wastewater system, but will be reassessed during permitting.
- 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 development will have a de minimis impact on recreation and open space.
- Roadways: The applicant is developing the site with less intensity than was contained within the site; resulting in a de minimis impact.

- Educational Facilities: This development will have a de minimis impact on educational facilities since existing uses are 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 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 and north by properties zoned MU. There is no project boundary buffer required between MU and MU zoning. However, the applicant is proposing vegetative screening between the site and the neighboring sites.

Section 107.71 A. requires that parcels with a MU zoning designation provide a Type 1 Streetscape Treatment for all parcels along US 1. The existing development has historically had nearly the entire portion along US1 paved. With the relocation of driveways and site redevelopment, the requisite plantings will be provided.

Section 107.71 C. requires that all nonresidential uses shall be required to provide a minimum of two canopy trees for every 100 linear feet of property frontage along local streets. The applicant proposes landscaping compliant with this requirement.

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’.

This plan shows a 47’ setback on the front yard to the canopy, 10’ western side and 10’ setback on the eastern side yard, and 157’ rear yard setback.

<b>Setback</b>	<b>Required</b>	<b>Required Landscape</b>	<b>Proposed</b>	<b>Compliant</b>
Front	0-30	10’	47’	Y
East Side	0-10	10’	10’	Y
West Side	0-10	N/A	10’	Y
Rear	20	10’	157’	Y

Therefore, 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; 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 considered developed; therefore, a twenty percent open space requirement applies. According to the provided conditional use plan, the property shall maintain a 20% open space.

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 is relatively dense and intense. Adjacent uses include commercial and residential establishments. A redevelopment of the site with less intensity 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 42' as measured from the crown of the roadway or unimproved grade. The site plans show that buildings are below 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 104.14 Convenience Store contains special requirements.

A convenience store may be allowed pursuant to Table 103.15.1, subject to the following standards:

- Additional Principal Uses: A convenience store may offer an additional principal use, such as a restaurant or fuel sales. A convenience store with two (2) or more principal uses shall comply with the standards for all of these uses.
- Maximum Gross Floor Area: A convenience store, including additional principle uses, shall not exceed 8,000 square feet of total floor area.
- Parking for Additional Principal Uses: Parking for additional principal uses shall be calculated separately to determine the total number of required parking spaces.

Additionally, Section 104.18 Fuel Sales contains the following special requirements.

Fuel sales may be allowed pursuant to Table 103.15.1 provided that the locations of fuel pump islands and fuel storage tanks meet the standards in this section. Other structures on the premises shall follow the standards for the zoning district. Within the I-M and MU-M districts, fuel sales shall be limited to vessels and other water vehicles.

- Location of Fuel Pump Islands: Pump islands shall be a minimum of 25 feet from any road right-of-way line, ten (10) feet from any other property line or 12 feet from any building line. Canopies over the pump islands may extend up to ten (10) feet from any property line.
- Location of Fuel Tanks: Gasoline and fuel storage tanks shall be located a minimum of 20 feet from any property line or building.

Therefore, with the conditions noted 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 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:**

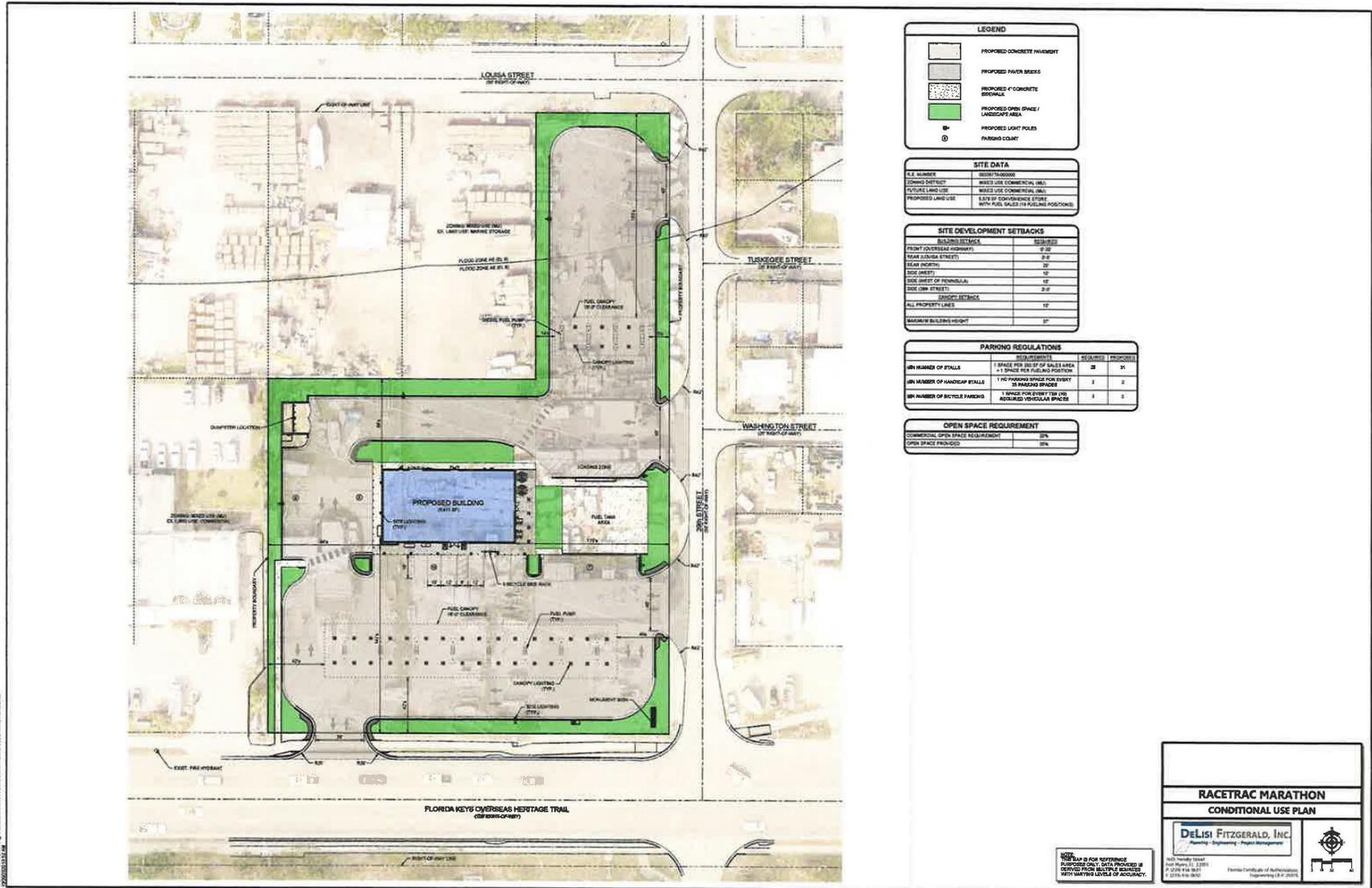
The Planning Commission unanimously (4-0) recommended conditional approval of the commercial redevelopment of 3896 Overseas Highway to the City Council. The proposed conditions of approval are listed below.

#### Conditions of Approval

1. All conditions of the Fire Marshal must be met prior to permit issuance.
2. A final landscaping plan must be approved prior to permit issuance.
3. A final stormwater plan must be submitted prior to permit issuance.
4. Clear sight triangles must be shown on the site plan at time of building permit issuance.
5. Applicant must overlay the existing street with a minimum 1” structural coarse. This may be done with a standalone right of way permit or may be included in the overall permit for improvements.

6. A detailed lighting plan must be submitted before the project is permitted.
7. Denser vegetation and screening will be required along the 39<sup>th</sup> street portion of the property across from the residential neighborhood. Vegetation along the remainder of 39<sup>th</sup> street and US1 shall be in excess of the minimum standards.
8. Prior to permit issuance the dumpster must be shown on site and must be screened.
9. City approval is required for the stormwater management system prior to Building Permit Approval.
10. City approval of the connection to the City Wastewater Utility will be required.
11. All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
12. Additional Principal Uses: A convenience store may offer an additional principal use, such as a restaurant or fuel sales. A convenience store with two (2) or more principal uses shall comply with the standards for all of these uses.
13. Maximum Gross Floor Area: A convenience store, including additional principle uses, shall not exceed 8,000 square feet of total floor area.
14. Parking for Additional Principal Uses: Parking for additional principal uses shall be calculated separately to determine the total number of required parking spaces.
15. Location of Fuel Pump Islands: Pump islands shall be a minimum of 25 feet from any road right-of-way line, ten (10) feet from any other property line or 12 feet from any building line. Canopies over the pump islands may extend up to ten (10) feet from any property line.
16. Location of Fuel Tanks: Gasoline and fuel storage tanks shall be located a minimum of 20 feet from any property line or building.
17. Plans must show appropriate striping and signage to direct vehicle traffic access from 39<sup>th</sup> street. Larger vehicle turning radii must be shown on the site plan prior to permit issuance.
18. Per the Sustainability and Climate Plan, Land Use and Transportation (LUT) Strategy 4.0, the applicant is encouraged to provide alternative fuel sources. In doing so, the City shall provide incentives, the form of which shall be at the discretion of the City Manager and Planning Director.
19. The applicant will obtain any required permits from any and all outside agencies prior to building permit issuance. Copies of approvals, reports, and permits must be provided to the City. This includes but is not limited to DEP, SFWMD, FDOT, EPA approvals.
20. The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.

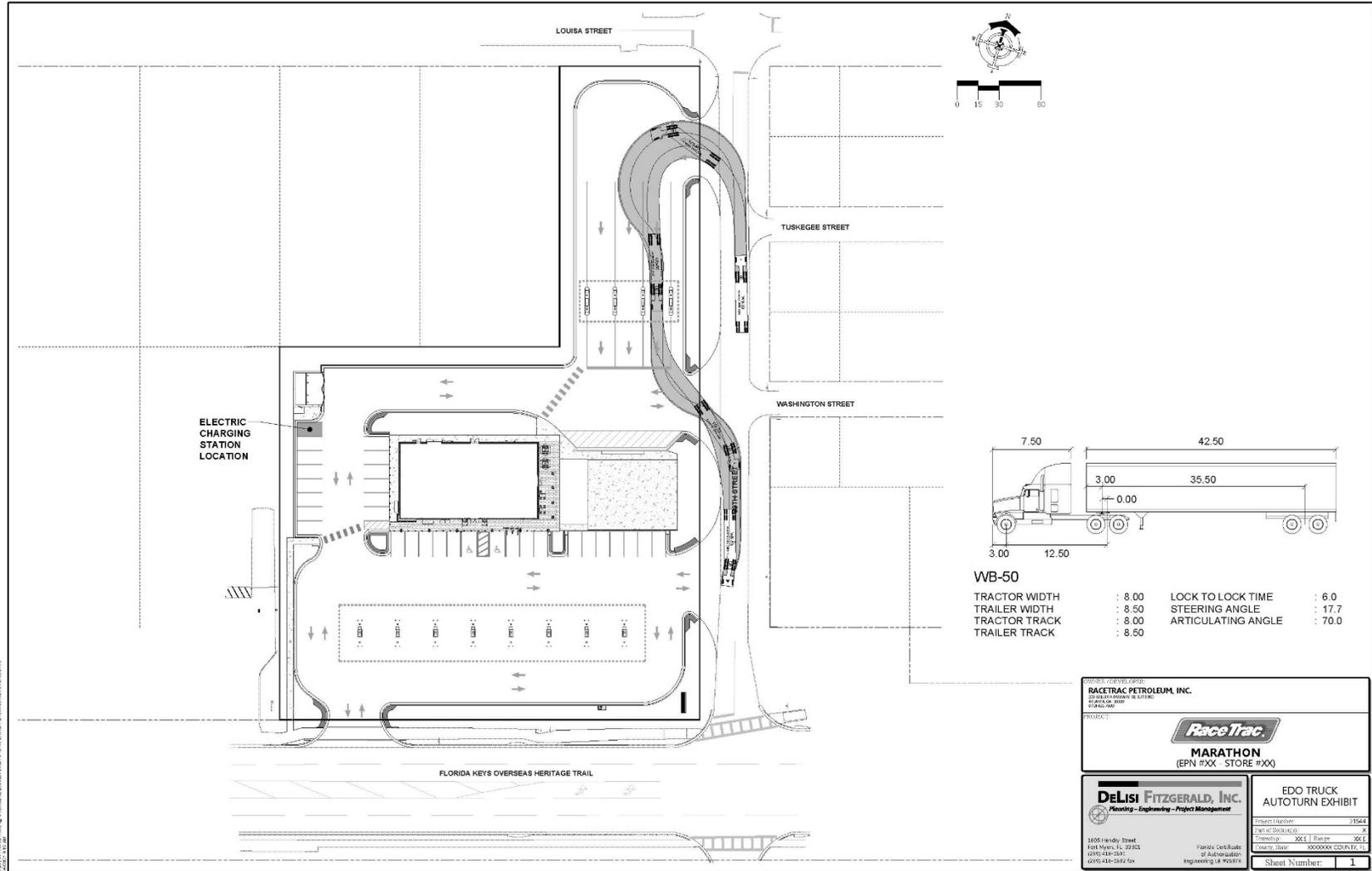
## Attachments: Proposed Site Project Plans



# Attachments: Proposed Elevations



## Attachments: Access Control, Turning Radii, and Charging Station



**CITY OF MARATHON, FLORIDA  
RESOLUTION 2021-01**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE REQUEST BY BRIAN THORTON OF RACETRAC PETROLEUM, 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 5,411 SQ. FT. CONVENIENCE STORE WITH 16 SELF-SERVICE FUEL POSITIONS AND 3 HIGH CAPACITY DIESEL DELIVERY POSITIONS ON PROPERTY LOCATED AT 3896 OVERSEAS HIGHWAY, WHICH IS LEGALLY DESCRIBED AS LOT 1, THE SOUTH 200 FEET OF LOT 2, THE SOUTH 200 FEET OF LOT 3, SQUARE 3 AND PT OF GOVT LOT 3 MARATHON BEACH SUBDIVISION PB 2-16, MARATHON, FLORIDA; HAVING REAL ESTATE NUMBER 00336770-000000.**

**WHEREAS**, Brian Thorton Of Racetrac Petroleum, Inc (The “Applicant”) filed an Application on November 2, 2020 for a Conditional Use Permit pursuant to Chapter 102, Articles 13 of the City of Marathon Land Development Regulations (LDRs); and

**WHEREAS**; the Applicant has proposed redevelopment of an existing convenience store and gas station; and

**WHEREAS**, 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 14<sup>th</sup> day of December, 2020, the City of Marathon Planning Commission (the “Commission”) conducted a properly advertised public hearing (the “Public Hearings”) 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 12<sup>th</sup> day of January, 2021, the City Council (the “Council”) 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**; 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

**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 2021-01, a copy of which is attached hereto as Exhibit "A", granting a Conditional Use Permit to Brian Thorton Of Racetrac Petroleum, 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 its adoption.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 12TH DAY OF JANUARY 2021.**

**THE CITY OF MARATHON, FLORIDA**

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Luis Gonzalez, 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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Steven T. Williams, City Attorney



**CITY OF MARATHON, FLORIDA  
CONDITIONAL USE  
DEVELOPMENT ORDER # 2020-01**

**A DEVELOPMENT ORDER APPROVING THE BY BRIAN THORTON OF RACETRAC PETROLEUM, 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 5,411 SQ. FT. CONVENIENCE STORE WITH 16 SELF-SERVICE FUEL POSITIONS AND 3 HIGH CAPACITY DIESEL DELIVERY POSITIONS ON PROPERTY LOCATED AT 3896 OVERSEAS HIGHWAY, WHICH IS LEGALLY DESCRIBED AS LOT 1, THE SOUTH 200 FEET OF LOT 2, THE SOUTH 200 FEET OF LOT 3, SQUARE 3 AND PT OF GOVT LOT 3 MARATHON BEACH SUBDIVISION PB 2-16, MARATHON, FLORIDA; HAVING REAL ESTATE NUMBER 00336770-000000.**

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**WHEREAS**; the Applicant has proposed redevelopment of an existing convenience store and gas station; and

**WHEREAS**, 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**, and on the 12<sup>th</sup> day of January, 2021, the City Council (the “Council”) 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**; 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 Council has duly considered the recommendation of the PC, and the information and documentary evidence submitted by the applicant, and does hereby find and determine as provided below.

**FINDINGS OF FACT:**

1. The Applicant has proposed redevelopment of a convenience store and gas station on developed land as shown in Exhibit 1.
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 conditions of the Fire Marshal must be met prior to permit issuance.
2. A final landscaping plan must be approved prior to permit issuance.
3. A final stormwater plan must be submitted prior to permit issuance.
4. Clear sight triangles must be shown on the site plan at time of building permit issuance.
5. Applicant must overlay the existing street with a minimum 1” structural coarse. This may be done with a standalone right of way permit or may be included in the overall permit for improvements.
6. A detailed lighting plan must be submitted before the project is permitted.
7. Denser vegetation and screening will be required along the 39<sup>th</sup> street portion of the property across from the residential neighborhood. Vegetation along the remainder of 39<sup>th</sup> street and US1 shall be in excess of the minimum standards.
8. Prior to permit issuance the dumpster must be shown on site and must be screened.
9. City approval is required for the stormwater management system prior to Building Permit Approval.
10. City approval of the connection to the City Wastewater Utility will be required.
11. All signs will be reviewed and approved for compliance with the City of Marathon LDR’s.
12. Additional Principal Uses: A convenience store may offer an additional principal use, such as a restaurant or fuel sales. A convenience store with two (2) or more principal uses shall comply with the standards for all of these uses.
13. Maximum Gross Floor Area: A convenience store, including additional principle uses, shall not exceed 8,000 square feet of total floor area.
14. Parking for Additional Principal Uses: Parking for additional principal uses shall be calculated separately to determine the total number of required parking spaces.
15. Location of Fuel Pump Islands: Pump islands shall be a minimum of 25 feet from any road right-of-way line, ten (10) feet from any other property line or 12 feet from any building line. Canopies over the pump islands may extend up to ten (10) feet from any property line.
16. Location of Fuel Tanks: Gasoline and fuel storage tanks shall be located a minimum of 20 feet from any property line or building.
17. Plans must show appropriate striping and signage to direct vehicle traffic access from 39<sup>th</sup> street. Larger vehicle turning radii must be shown on the site plan prior to permit issuance.
18. Per the Sustainability and Climate Plan, Land Use and Transportation (LUT) Strategy 4.0, the applicant is encouraged to provide alternative fuel sources. In doing so, the City shall provide incentives, the form of which shall be at the discretion of the City Manager and Planning Director.
19. The applicant will obtain any required permits from any and all outside agencies prior to building permit issuance. Copies of approvals, reports, and permits must be provided to the City. This includes but is not limited to DEP, SFWMD, FDOT, EPA approvals.
20. 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

\_\_\_\_\_  
Brian Shea  
Director of Planning

This Development Order was filed in the Office of the City Clerk of this \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
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 Economic Opportunity 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 Economic Opportunity. 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 L. Steven Hurley, 3706 N Roosevelt Blvd., Suite 208, Key West , FL 33040, this \_\_\_ day of \_\_\_\_\_, 2021.

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

Exhibit 1

