

COUNCIL AGENDA STATEMENT



Meeting Date: January 12th, 2021

To: Honorable Mayor and Council Members

From: Brian Shea, Planning Director

Through: George Garrett, City Manager

Agenda Items: **Ordinance 2021-03**, Amending The Zoning Designation From Residential High (RH) To Mixed Use (MU) For The Property Described As Block C Lots 6 and 7, Sheryl Subdivision #2, Key Vaca , Marathon, Monroe County, Florida, Having Real Estate Numbers 00340010-000000 and 00340020-000000; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity; And Providing For An Effective Date Upon The Approval Of This Ordinance By The State Department Of Economic Opportunity.

Ordinance 2021-04, Amending The Future Land Use Map (FLUM) From Residential High (RH) To Mixed Use-Commercial (MU-C) For The Property Described As Block C, Lots 6 and 7, Sheryl Subdivision #2, Key Vaca, Marathon, Monroe County, Florida, Having Real Estate Numbers 00340010-000000 and 00340020-000000; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity; And Providing For An Effective Date Upon The Approval Of This Ordinance By The State Department Of Economic Opportunity.

APPLICANT/OWNER: Marathon Ventures LLC

AGENT: John Wolfe and/or Barbara Mitchell

LOCATION: The subject property is located on 63rd Street, nearest Mile Marker 50 and is legally described as Block C Lots 6 & 7, Sheryl Subdivision, Key Vaca, Marathon, Monroe County, Florida, Having Real Estate Numbers 00340010-000000 & 00340020-000000.

ADDRESS: Vacant Land 63rd Street

REQUEST: Amend the Future Land Use Map (FLUM) for the subject properties from Residential High (RH) to Mixed Use Commercial (MU-C).

Amend the Zoning Map for the subject properties from Residential High (RH) to Mixed Use (MU).

LOT AREA: The aggregated size of the parcels is approximately .34 acres (14,916 sq./ft.)

BACKGROUND:

These parcels were zoned as Suburban Commercial (SC) and Improved Subdivision under Monroe

County. In 2005, when the City of Marathon adopted the Comprehensive Plan, the parcels were given a Residential High (RH) FLUM designation and were in turn zoned as Residential High (RH) when the City adopted the current zoning maps in 2007. The applicants are requesting the re-designation of the FLUM map and subsequent rezoning to make the parcels consistent with the Mixed Use Commercial (MU-C) designation and existing and proposed uses. The rezoning is also addressed in this application. Existing use on the vacant property is a storage lot.

The applicants have stated that the FLUM and zoning designation should be the same as the adjacent owned commercial property to the North.

	Pre 2005	Pre 2007	2005	2007
	OLD FLUM	OLD ZONING	CURRENT FLUM	CURRENT ZONING
	Suburban Commercial	Suburban Commercial & Improved Subdivision	Residential High	Residential High

Figure One
Old FLUM

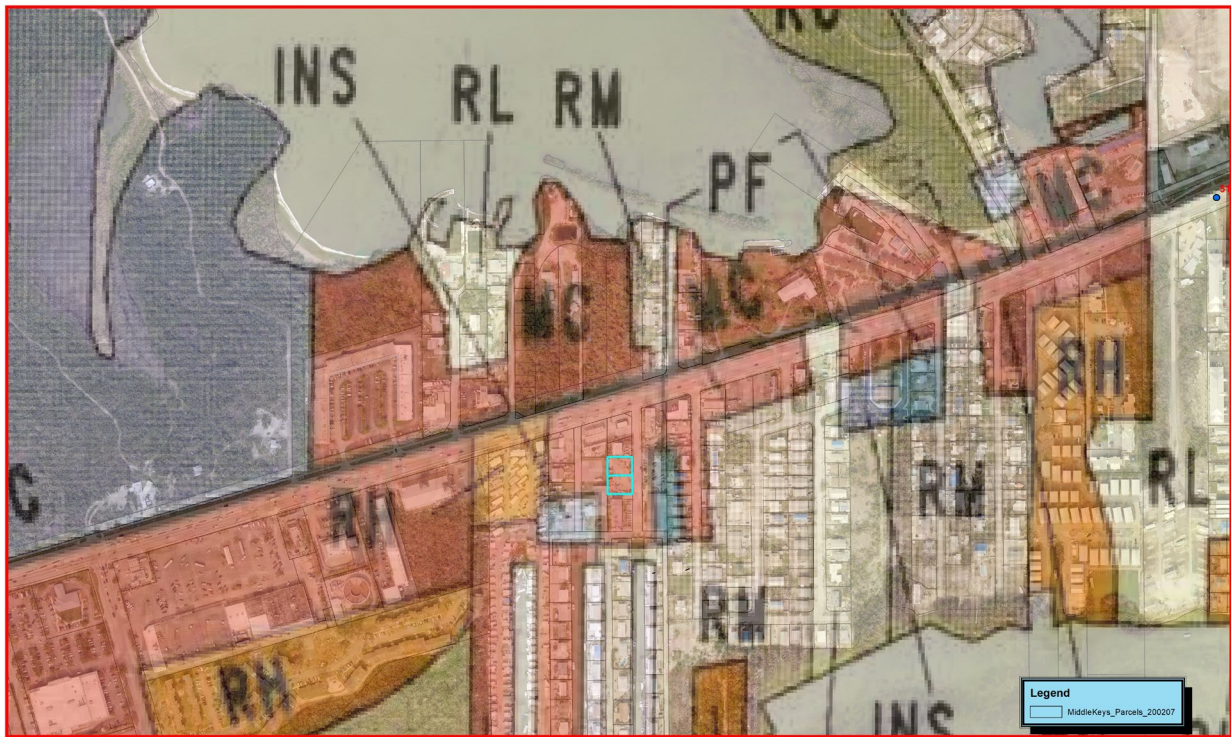


Figure Two
Old Zoning

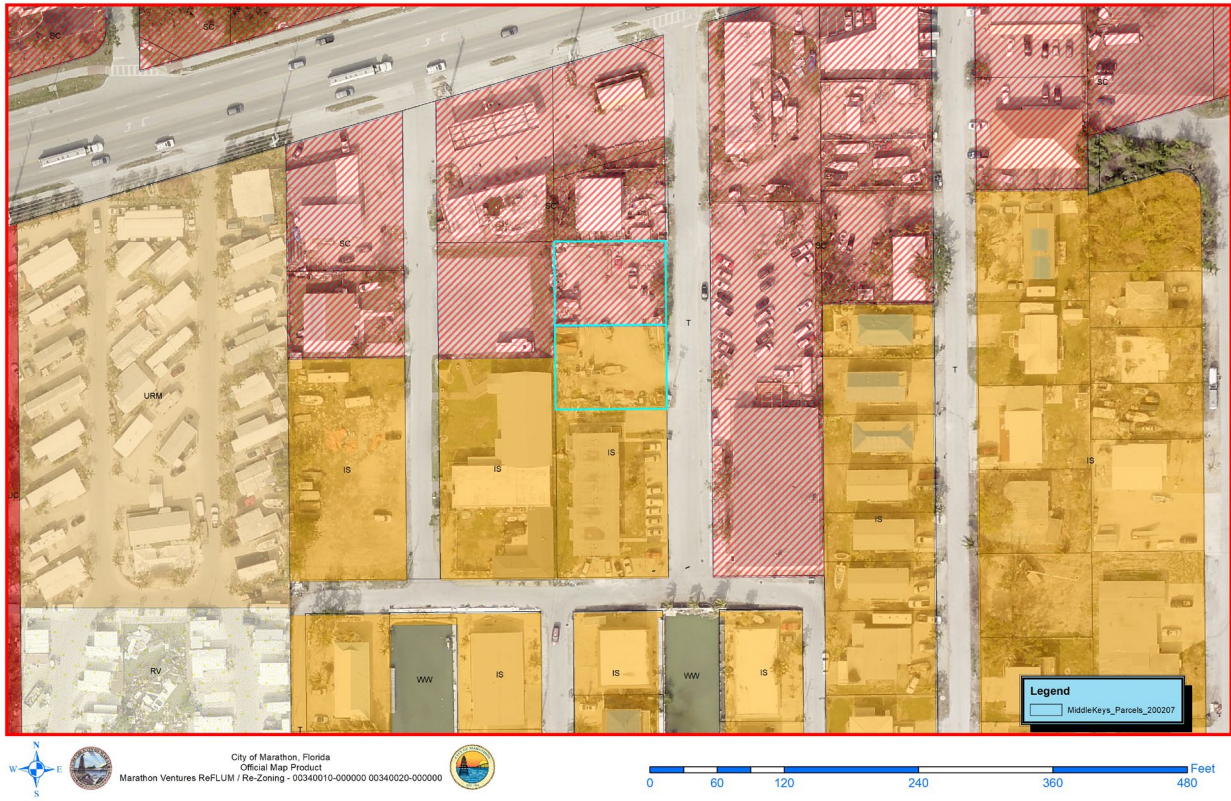


Figure Three
Current FLUM

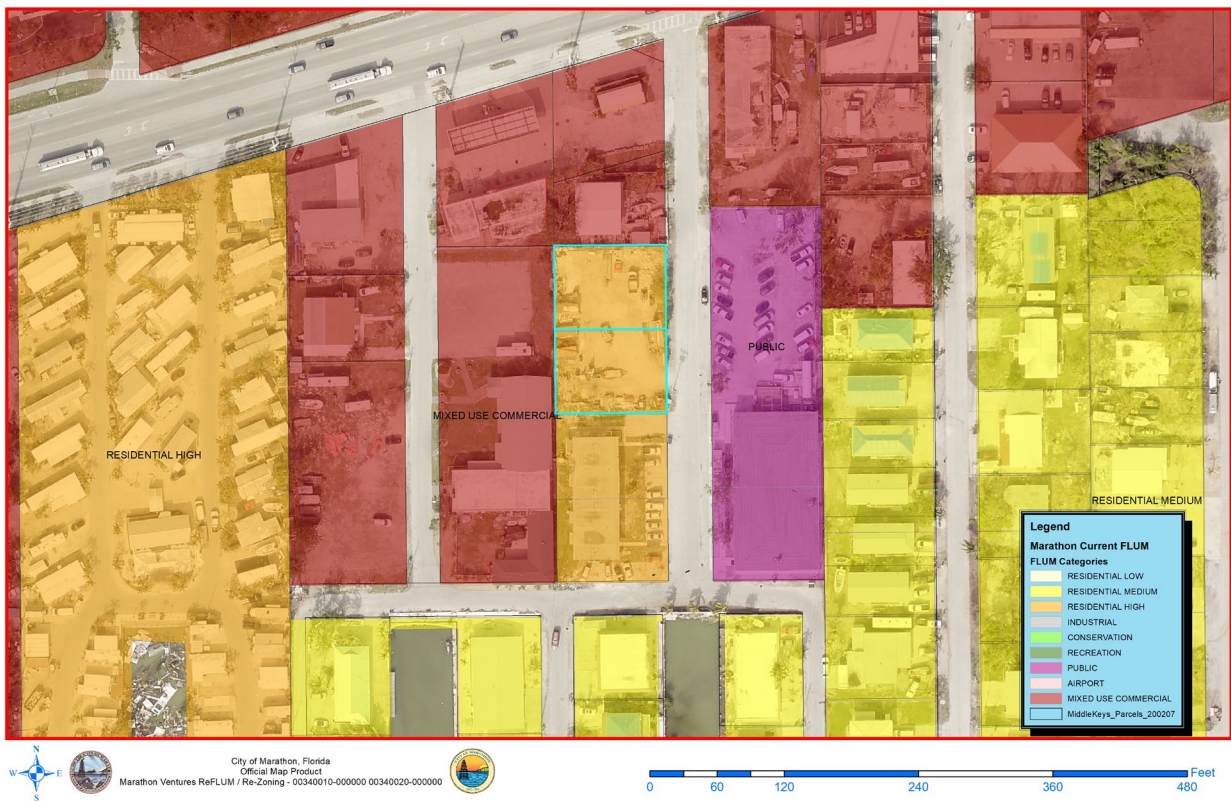
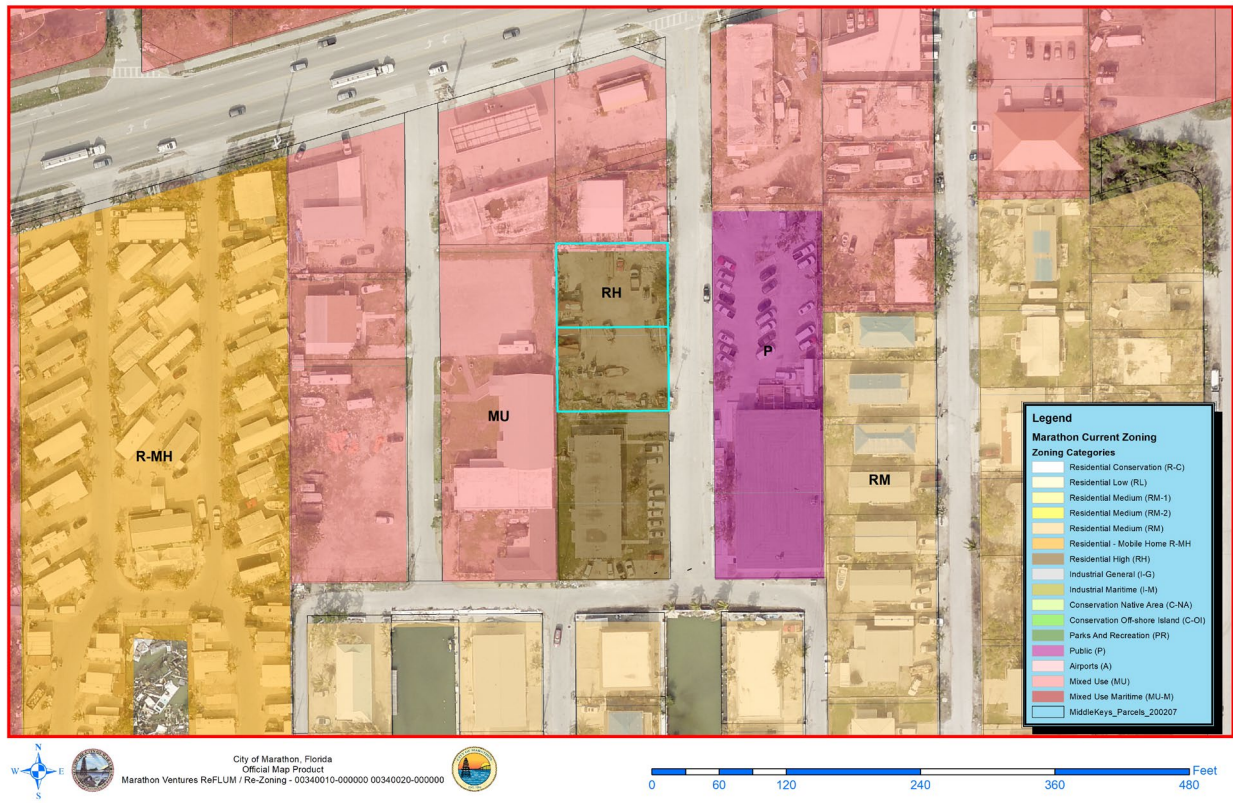


Figure Four
Current Zoning



Current and Proposed Future Land Uses and Zoning

Future Land Use Map Designation

Current: Residential High (RH)
Proposed: Mixed Use Commercial (MU-C)

Land Use (Zoning) District Designation

Existing: Residential High (RH)
Proposed: Mixed Use (MU)

Use of Properties

Existing: Outdoor Storage
Proposed: Expansion of Marine Aquaculture/Research Facility

Surrounding FLUM, Zoning and Uses

The property subject to the FLUM amendment is located on 63rd Street and consists of two parcels. The properties are located South of a property under the same ownership that is zoned Mixed Use. Adjacent land use to the West is Mixed Use. To the South is an apartment building zoned Residential High. Across the street the zoning is Public. The following table correlates existing uses with the existing FLUM, zoning and uses.

	<u><i>Existing FLUM</i></u>	<u><i>Existing Zoning</i></u>	<u><i>Existing Uses</i></u>
North	Mixed Use Commercial (MUC)	Mixed Use (MU)	Gas station, Single family and Aquaculture/research facility
East	Public (P)	Public (P)	Monroe County Emergency Management
South	Residential High (RH)	Residential High (RH)	Apartment Building
West	Mixed Use Commercial (MUC)	Mixed Use (MU)	First Baptist Church

Existing Habitat

The existing conditions maps indicate the properties are designated as vacant. The parcels are not within the Florida Forever boundaries, which is land that has been identified as critical areas suitable for acquisition by federal, state, or local agencies.

FEMA

The properties are within the AE 6 flood zone. On the preliminary flood maps the properties are within the AE 9 flood zone.

DEVELOPMENT ANALYSIS:

Current FLUM: Residential High (RH)

Policy 1-3.1.4 Residential High of the Comprehensive Plan states “the principal purpose of the Residential High land use category is to provide for high-density single-family, multi-family, and institutional residential development.”

Residential High Allowable Density:

Market Rate – 8 Units per acre

Affordable – 15 to up to 25 units per acre

Proposed FLUM: Mixed Use Commercial (MU-C)

Policy 1-3.1.4 Mixed Use Commercial of the Comprehensive Plan states “the principal purpose of the Mixed Use Commercial land use category is to provide for the establishment of Mixed Use development patterns within the City. This land use category is intended to provide for the commercial zoning district where various types of commercial, retail, and office uses may be permitted at intensities which are consistent with the community character and the natural environment and to provide for various types of residential uses, including employee housing and commercial apartments.”

Mixed Use Commercial Allowable Density

Market Rate – 2-6 Units per acre

Affordable – 10-15 units per acre

Transient – 10-25 units per acre

Commercial-Industrial Intensity Table

Type of Use	FAR ¹
Retail	
<i>Low Intensity</i>	.60
<i>Med Intensity</i>	.45
<i>High Intensity</i>	.25
Office	.60
Commercial Recreation	.15
Institutional	.30
Outdoor Recreational	.15
Public Buildings and Uses	.45
Restaurant/Bar	.60
Industrial	.85
Light Industrial in MU	.30

¹ The FAR for mixed use developments may be increased to .75 if mitigated by the development of affordable/workforce housing is provided

ANALYSIS OF FLUM CHANGE REQUEST:

Consistency with Adopted Comprehensive Plan Goals, Objectives, and Policies.

The following excerpts from the City of Marathon Comprehensive Plan apply to the proposed development.

Policy 1-1.1.1 states the City is to protect and enhance the “small town” atmosphere and to encourage mixed- use development patterns.

Policy 1-1.1.3 states the City is to protect viable and stable residential neighborhoods from inconsistent uses via LDR standards for landscaping, buffering, bulk restrictions, building height, setbacks, and separation between uses.

Policy 1-1.1.4 states the City shall continue to maintain LAND DEVELOPMENT REGULATIONS which implement the following techniques required to create a smooth land use transition where it is not feasible to separate incompatible land uses.

- a. Variable buffers, combining land and landscaping to achieve adequate separation of uses, appropriate open space, reduction of potential noise, light, glare, and pollution, and screening of physical features of a proposed development;
- b. Variable setbacks, based upon degree of difference in proposed use, density, intensity, scale, mass, or height;
- c. Placement and effective screening or shielding of site features such as lights, signs, dumpsters, loading areas, parking areas, outdoor storage, or other features with potential negative impacts;
- d. Effective transitions of on-site densities, intensities, scale, mass, and height; and

- e. Other innovative site design features that effectively achieve compatibility and effectively mitigate potential negative impacts.

FL State Statutes

Relevant criteria promulgated in Chapters 163, 380, and 9J-5 F.A.C. can be itemized in bullets as follows based on the critical concerns more specifically identified in the City's comprehensive plan:

- Natural Resource Protection
 - Wetlands
 - Estuaries
 - Living marine resources
 - Beaches / Dunes
 - Unique wildlife habitat
 - Water Quality
- Historical Resources
- Infrastructure / Concurrency Management
 - Wastewater
 - Stormwater
 - Potable Water
 - Solid Waste
 - Transportation
- Affordable Housing
- Hazard Mitigation
 - CHHA
 - Hurricane Evacuation
- Ports
 - Marina Siting
- Public Use
 - Shoreline use and Access
 - water dependent and independent activity
- Land Acquisition
 - Conservation
 - CHHA
 - Public Services

These bullet items will be utilized as the focus points for review of the proposed FLUM amendment and for future comprehensive plan amendments.

Natural Resources

Direct impacts to natural resources would differ minimally as a result of the proposed FLUM change. These properties are not recognized habitat to any state or federally listed animal species and are not within Florida Forever boundaries or critical habitat areas.

There are no associated wetlands, estuaries, beach areas or dunes associated with the area proposed for FLUM change. These are protected resources important to the tenants of Chapter 163, 9J-5, F.A.C., or the Principals for Guiding Development. Similarly, no living marine resources adjacent to the subject area would be adversely impacted by the proposed change in the FLUM map.

The proposed FLUM amendment is consistent with these provisions of the Comprehensive Plan and Chapters 16 and 380 F.S.

Historical and Cultural Resources

Protection of historical and cultural resources is crucial under the City's Comprehensive Plan, Chapters 163 and 380 F.S.

There are no known historical or cultural resources associated with the subject properties or within the area of the requested FLUM change. Therefore, the FLUM change would have no impacts on historical or cultural resources. The proposed FLUM amendment is therefore consistent with these provisions of the Comprehensive Plan and Chapters 16 and 380 F.S.

Infrastructure

• Wastewater infrastructure

Wastewater as an issue of infrastructure capacity and means of water quality protection represents the backbone to the City's Comprehensive Plan, the tenants of Chapters 163 and 380 F.S. The subject property inclusive of the area of the proposed FLUM change is served by the Area 5 sewer infrastructure. The Utility Manager for the City of Marathon reviewed the proposed FLUM changes and determined that there would be no adverse impact on sewer capacity if the proposal were approved.

The proposed FLUM change would maintain concurrency levels of wastewater infrastructure capacity and provide limited or no adverse impact resulting from nutrient loading. The proposed FLUM amendment is, therefore, consistent with these provisions of the Comprehensive Plan and Chapters 16 and 380 F.S.

• Stormwater infrastructure

Stormwater infrastructure capacity and means of water quality protection represents another of the backbone elements of the City's Comprehensive Plan, the tenants of Chapters 163 and 380 F.S. The City of Marathon requires that all property owners retain their stormwater on site. All proposals for

new developments, and redevelopments, must submit detailed civil engineering plans for review by the City Engineer. Proposals for redevelopment would have to obtain all required permits through other applicable agencies, such as the Department of Environmental Protection & South Florida Water Management District.

Staff believes that the proposed FLUM change would have a diminimus impact on stormwater infrastructure capacity.

- **Potable Water**

Monroe County's potable water facilities do not critically constrain the amount of future growth that can be accommodated in the County (see End Note 1). The current FKAA Consumptive Use Permit, when compared to current potable water consumption rates, will provide sufficient potable water to accommodate existing and committed development plus an additional 18,258 equivalent residential units (ERU's) in unincorporated and incorporated Monroe County. The FKAA's Consumptive Use Permit has been renewed (see End Note 1). Costs of improvements to upgrade facilities for potable water supply, treatment and distribution, in order to accommodate future growth impacts, would not be borne by the City, as this utility is private and would be in the FKAA's CIP, not the City's.

An increase in potable water demand is not expected as part of the proposed FLUM change, any increase would have a diminimus impact on potable water infrastructure capacity. The proposed FLUM amendment is, therefore, consistent with these provisions of the Comprehensive Plan and Chapters 16 and 380 F.S.

- **Solid Waste**

Solid waste capacity is managed in the Florida Keys under haul-out contracts to mainland solid waste facilities. There are currently no limits on solid waste capacity that would be impacted by this FLUM proposal.

The proposed FLUM change would maintain concurrency levels of solid waste infrastructure capacity. The proposed FLUM amendment is, therefore, consistent with these provisions of the Comprehensive Plan and Chapters 16 and 380 F.S.

- **Transportation**

The requested FLUM change is not expected to have an adverse impact on roadway capacity.

Monroe County's roadway facilities do not critically constrain the amount of future growth that can be accommodated in the County or the City (see End Note 1). Although localized deficiencies characterize several segments of US 1, sufficient reserve capacity exists in the overall roadway system to accommodate existing and committed development plus an additional 5,738 residential units (see End Note 1). Only 2,550 were allocated to unincorporated Monroe County in 1992, of which 150 went to the City. Thus, there is reserve capacity on US 1 to accommodate planned growth in the City (see End Note 2).

The proposed FLUM change would maintain concurrency levels of transportation on U.S. Highway One. The proposed FLUM amendment is, therefore, consistent with these provisions of the

Comprehensive Plan and Chapters 16 and 380 F.S.

Affordable Housing

Affordable housing is an important issue in the Florida Keys and throughout the state of Florida. The City has well over 200 developed or approved affordable housing units. The proposed FLUM change would decrease a potential for increased affordable housing on site. The Mixed Use FLUM category allows for a potential of 15 units per acre of affordable housing versus the RH FLUM category which allows for 15 to up to 25 units per acre. Therefore, excluding the potential for density bonus, the number of affordable units does not change.

The proposed FLUM change will have the effect of enhancing the potential for affordable housing projects. The proposed FLUM amendment is therefore consistent with these provisions of the Comprehensive Plan and Chapters 16 and 380 F.S.

Hazard Mitigation

• Coastal High Hazard Areas

The subject parcel, closest to the Atlantic Ocean, is in a Coastal High Hazard Area (CHHA). Any future development on site, if encroaching into this zone, would have to comply with all provisions of the local City of Marathon Floodplain Ordinance, in accordance with the standards as set to be a participating community in the National Flood Insurance Program (NFIP).

Policy 4- 1.17.6 Limit Redevelopment in CHHA

The City shall limit redevelopment in areas within the CHHA shown by the Local Mitigation Strategy to be particularly susceptible to repeated damage. Criteria for assessing redevelopment potential for these properties shall be addressed within the Post Disaster Redevelopment Plan, to be prepared pursuant to Policy 4-1.22.3.

Policy 4-1.20.1 Discourage Development in the High Velocity Area

The City shall, through the Land Development Regulations, continue to encourage both residential and non-residential development away from the areas designated as high velocity storm surge areas through disincentives in the adopted BPAS.

While development in the CHHA is to be discouraged in the Comprehensive Plan, it can be permitted by the Land Development Regulations in cases where it cannot be avoided; in these cases, development is required to comply with local Floodplain Management Regulations related to Velocity zone construction. The City has recently revised its floodplain regulations to comply with all recent revisions to the construction standards typically applied in a VE (CHHA) zone. This property is not within the proposed LiMWA area.

The proposed FLUM change results in a diminished hazard to public safety. New construction will have to meet flood regulations, and would therefore represent decreased development in the CHHA on site. The proposed FLUM amendment is, therefore, consistent with these provisions of the Comprehensive Plan and Chapters 16 and 380 F.S.

• Hurricane Evacuation

The critical carrying capacity constraint at the present time is related to the requirement that hurricane evacuation clearance times for Monroe County be maintained at or below 30 hours through the Year 2002, and further reduced to 24 hours by 2010 (see End Note 1).

The Florida Department of Economic Opportunity in conjunction with sister state agencies and the participation of all local governments completed an analysis this year of current hurricane evacuation constraints. It was determined that under defined conditions, the County was able to maintain a 24-hour evacuation time while continuing the current ROGO and BPAS allocation formulas. Thus, for the ensuing ten (10) years the City will continue to be able to issue 30 residential allocations per year. Additionally 25,000 square feet of Commercial or CBPAS is available per period.

The proposed FLUM change would have a positive impact on hurricane evacuation times with the BPAS system in place. The proposed FLUM amendment is, therefore, consistent with these provisions of the Comprehensive Plan and Chapters 16 and 380 F.S.

Ports – Marina Siting

Staff believes that the proposed FLUM change will have no adverse impact on ports management or the City's Marina Siting Plan. Marinas are allowed under a conditional use permit in the Mixed Use (MU) zoning district under the City's Land Development Regulations; however, as this property is land locked, no marina development is foreseeable.

The proposed FLUM amendment is, therefore, consistent with these provisions of the Comprehensive Plan and Chapters 16 and 380 F.S.

Public Use – Access to Water

There is no public access to the water from this location

Staff believes that the proposed FLUM change will have no adverse impact on public access to water. The proposed FLUM amendment is, therefore, consistent with these provisions of the Comprehensive Plan and Chapters 16 and 380 F.S.

Land Acquisition

Land acquisition in the Florida Keys is carried out by the City, County, State, and to a limited extent the federal government for the purposes of resource conservation and management, removal of properties in the CHHA from public ownership, and to provide for public services and facilities. The parcels are not on the Florida Forever boundary map.

The proposed FLUM change would have no impact on land acquisition efforts of the above mentioned entities so long a conservation easement is ensured. The proposed FLUM amendment is, therefore, consistent with these provisions of the Comprehensive Plan and Chapters 16 and 380 F.S.

SUMMARY:

The applicants have requested a change in the Future Land Use Map (FLUM) designation for the parcels located on 63rd Street. Currently the property is designated as Residential High (RH). The applicant is requesting a change to Mixed Use Commercial (MUC), and subsequent rezoning of the parcel.

The applicants have requested a change in the Zoning designation for the parcels located on 63rd Street. Currently the property is designated as Residential High (RH). The applicant is requesting a change to Mixed Use (MU), and subsequent rezoning of the parcel.

Staff finds the proposed FLUM change consistent with the standards and tenants of Chapter 163 and 380 F.S., and the City's Comprehensive Plan adopted under the requirements of these statutes and rules.

RECOMMENDATION:

Based on the above information, the Marathon Planning Department staff recommended that the Planning Commission forward a recommendation to Council. The Planning Commission provided a unanimous (4-0) recommendation of approval of the proposed FLUM and Zoning changes to Mixed Use-Commercial (FLUM) and Mixed Use (Zoning).

Sponsored By: Garrett
Planning Commission Public Hearing Date: December 14, 2020
City Council Public Hearing Dates: January 12, 2021
TBD
Enactment Date: TBD

**CITY OF MARATHON, FLORIDA
ORDINANCE 2021-03**

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA AMENDING THE ZONING DESIGNATION FROM RESIDENTIAL HIGH (RH) TO MIXED USE (MU) FOR THE PROPERTY DESCRIBED AS BLOCK C LOTS 6 AND 7, SHERYL SUBDIVISION #2, KEY VACA , MARATHON, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00340010-000000 AND 00340020-000000; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY.

WHEREAS, pursuant to the provisions of Chapters, 163, 166 and 380 Florida Statutes, the City of Marathon, Florida (the "City") proposes to amend the City's Zoning Map (the "Map") to change the land use district designation of property owned by Marathon Ventures LLC, from Residential High (RH) to Mixed Use (MU); and

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

WHEREAS, pursuant to Chapter 163, *Florida Statutes*, and Sections 101.02 and 102.22 of the Code, the Planning Commission sitting as the Local Planning Agency publicly considered the proposed Zoning Map amendment on December 14, 2020 at a duly noticed public hearing, and has recommended approval of the proposed Map amendment to the City Council; and

WHEREAS, pursuant to the same legislative provision, the City Council considered the recommendation of the Planning Commission, accepted public input, and deliberated on the proposed Map amendment on January 12, 2021 and again on **TBD** at a duly noticed public hearing, and recommended that the amendment be transmitted to the Florida Department of Economic Opportunity (DEO) for review and final approval; and

WHEREAS, in accordance with Section 166.041, *Florida Statutes*, notice of the public hearings concerning the proposed Map amendment has been provided to the general public; and

WHEREAS, the City Council finds that approval of the proposed Zoning Map amendment is in the best interest of the City and complies with applicable laws and is consistent with the South Florida Regional Plan, the State Plan, Chapter 163, *Florida Statutes*, the principles for guiding development in the Florida Keys Area of Critical State Concern, the goals, objectives, and policies of the Plan, Chapter 102, Article 6 of the Code, and promotes and protects the health, safety and welfare of the residents of the City; and

WHEREAS, the City Council desires to approve the proposed Map amendment, in accordance with State law.

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

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

Section 2. In accordance with State law, the City of Marathon Comprehensive Plan, the Zoning Map designation of the Properties are amended from their current designation of Residential High (RH) to Mixed Use (MU) See Attachment “A.”

Section 3. The City shall timely transmit the revised Zoning Map reflecting the Map amendment, and all data and analysis supporting the Map amendment, to the State of Florida Department of Economic Opportunity, in its capacity as the State Land Planning Agency (the “Department”), as required by Chapters 163 and 380, *Florida Statutes*.

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

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

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

ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS ____ DAY OF ____ 2021.

THE CITY OF MARATHON, FLORIDA

Luis Gonzalez, Mayor

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

Diane Clavier
City Clerk

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

Steven T. Williams, City Attorney

ATTACHMENT A

