

CITY COUNCIL AGENDA STATEMENT



Meeting Date: October 12, 2021
To: Honorable Mayor and Council Members
From: Brian Shea, Planning Director
Through: George Garratt, City Manager

Agenda Item:

Ordinance 2021-19 Amending the Future Land Use Map (FLUM) From Residential Medium (RM) to Mixed Use Commercial (MUC) for Property Described as s Part Gov't Lot 1 and Part Gov't Lot 2, Part Parcel 3 and Adjacent bay Bottom South of and Adjacent Part Gov't Lot 1, Key Vaccas, Marathon, Monroe Co., Florida, Having Real Estate Number 00104260-000000; Providing for Severability; Providing for the Repeal of Conflicting Provisions; Providing for the Transmittal of this Ordinance to the State Department of Community Affairs; and Providing for an Effective Date Upon the Approval of this Ordinance by the State Department of Community Affairs.

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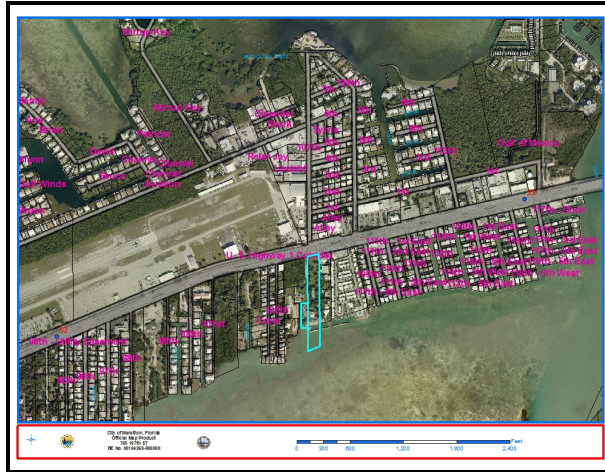
APPLICANT/OWNER: Marathon LLC

AGENT: Jim Saunders

LOCATION: The subject property is located on 107th Street Ocean, nearest Mile Marker 52 and is legally described as Part Gov't Lot 1 and Part Gov't Lot 2, Part Parcel 3 and Adjacent bay Bottom South of and Adjacent Part Gov't Lot 1, Key Vaccas, Marathon, Monroe Co., Florida, Having Real Estate Number 00104260-000000

ADDRESS: 765 107th Street

Location Map



REQUEST: Amend the Future Land Use Map (FLUM) for the subject properties from Residential Medium (RM) to Mixed Use Commercial (MUC).

LOT AREA: The aggregated size of the parcels is approximately 2.8 acres (123,161 sq./ft.)

BACKGROUND:

These parcels were zoned as Suburban Commercial (SC) under Monroe County. In 2005, when the City of Marathon adopted the Comprehensive Plan, the parcels were given a Residential Medium (RM) FLUM designation and were in turn zoned as Residential Medium (RM) 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 (MUC) designation along US1. The rezoning is not addressed in this application. Existing uses on the properties are residential dwelling units, and one of the parcels is a vacant lot.

Three parcels to the west, located at 796, 797, and 799 106th Street, requested this same FLUM re-designation during the 07-02 Comprehensive Plan amendment cycle, which was approved along with a request for rezoning. Those three parcels were also previously zoned as Suburban Commercial (SC), changed to Residential Medium (RM) when the City adopted the current FLUM and zoning maps, and changed back to Mixed Use Commercial (MUC) by approval of the City of Marathon Planning Commission and City Council, as well as the Department of Community Affairs (DCA). Similarly, those parcels also have existing uses as residential dwelling units.

The applicants have stated that the FLUM and zoning designation should be the same as what the properties were when the owners originally acquired them.

	Pre 2005	Pre 2007	2005	2007
	OLD FLUM	OLD ZONING	CURRENT FLUM	CURRENT ZONING

10155 OSH	Suburban Commercial	Suburban Commercial	Residential Medium	Residential Medium
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Current and Proposed Future Land Uses and Zoning

Future Land Use Map Designation

Current: Residential Medium (RM)
Proposed: Mixed Use Commercial (MUC)

Land Use (Zoning) District Designation

Existing: Residential Medium (RM)
Proposed: Mixed Use (MU)

Use of Properties

Existing: Residential
Proposed: No plans at this time

Surrounding FLUM, Zoning and Uses

The property subject to the FLUM amendment is located on 107th ST, Ocean and consists of one parcel. The property is located in an area with Mixed Use. Adjacent land use include commercial uses by established businesses to the North, the Atlantic Ocean to the South, a high density residential development and commercial uses to the east, and single family residences immediately to the West. The following table correlates existing uses with the existing FLUM, zoning and uses.

	<u>Existing FLUM</u>	<u>Existing Zoning</u>	<u>Existing Uses</u>
North	Mixed Use Commercial (MUC)	Airport, Industrial General, Mixed Use (MU) and Residential Medium (RM)	Portion of the airport, Subway, and JJ's Dog House
East	Residential High (RH)	Mixed Use (MU) and Residential High (RH)	Muffler Man, storage facility, and Ocean Isles Fishing Village
South	Atlantic Ocean	Atlantic Ocean	Atlantic Ocean
West	Residential Medium (RM)	Mixed Use (MU) and Residential Mobile Home (R-MH)	Single family residences The Palms Subdivisions

Existing Habitat

The existing conditions maps indicate the properties are designated as developed. The property is listed on the Species Focus Area for one habitat type, mangroves. The FEMA-FWS Species Assessment Guides indicates that altering the habitat should not affect the species. However, any alteration to the mangroves for provision of dockage and/or observation deck, though permissible, would require state (FDEP) and federal (ACOE) permits as well as City permits. The parcel is 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.

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 changes. The area is developed, with the exception of one of the parcels which is vacant. 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. 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 and zoning change 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 and zoning change 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 amendment and zoning change is served by the Area 5 sewer infrastructure. The Utility Manager for the City of Marathon reviewed the proposed changes and determined the applicant will need to coordinate with the Utility Department to perform any upgrades that are necessary to support the project in conjunction with the neighbors project across the street so as to meet the higher sanitary demand.

The proposed FLUM admendment and zoning 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. The project will require a Notice of Intent from FDEP for the NPDES permit.

Public Works states that the plan does not show any provisions for stormwater. The City's LDC requires retention of the 25 year 72 hour storm event which is approximately 11 inches of rainfall. In lieu of this requirement, the developer can provide enhanced water quality treatment, retention of 4 inches of rainfall, and discharge directly to open water.

Staff believes that the proposed FLUM amendment and zoning 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 amendment and zoning change, any increase would have a diminimus impact on potable water infrastructure capacity. The proposed FLUM amendment zoning change 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 admendment and zoning change would maintain concurrency levels of solid waste infrastructure capacity. The proposed FLUM amendment and zomning change 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).

Public Works states that an additional R/W or Easement shall be required along 107th Street. The pavement width is only approximately 18 feet wide, insufficient for two-way traffic. The pavement width shall be a minimum of 20 feet, with 4 feet on either side of clear space. The drive areas shall be gravel or other material that stabilizes the ground and limits erosion after completion.

Developer has stated that a roundabout has been designed on the US-1 intersection. This will need to be an easement as this roundabout is on Marathon LLCs property. Marathon LLC will have all of its homes use this roundabout access. The design has been coordinated with Seaglass Flats which is currently going through its re-platting at the Oceanside of 107 Street.

The proposed FLUM admendment and zoning change would maintain concurrency levels of transportation on U.S. Highway 1. 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 facilitate a potential for increased affordable housing on site. The Public FLUM category allows for a potential increase of 15 units per acre of affordable housing versus the RM FLUM category.

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

One of the subject parcels, closest to the Atlantic Ocean, is partially 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.

The proposed FLUM admendment and zoning change results in a diminished hazard to public safety.

Permanent residential would be replaced with non- residential and therefore represents 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.

The proposed FLUM amendment and zoning 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; while no marina development is foreseeable, a Marina Operating Permit, consistent with the LDRs would be required, this would include obtaining coordination letters from external agencies, and all necessary Federal, State and local approvals and permitting.

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

Public Use – Access to Water

The proposed FLUM amendment is located on 107th Street, Ocean, which is not a City street. There is no public access to the water from this location

Staff believes that the proposed FLUM change and zoning change will have no adverse impact on public access to water. The proposed FLUM amendment and zoning change 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 and zoning 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 four

parcels located on 107th Street. Currently the properties are designated as Residential Medium (RM). The applicant is requesting a change to Mixed Use Commercial (MUC), and subsequent rezoning of the parcels.

Staff finds the proposed FLUM and rezoning 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 recommends that the Planning Commission forward a recommendation to Council for transmittal of the request to amend the Future Land Use Map for this parcel from Residential Medium (RM) to Mixed Use Commercial (MUC).

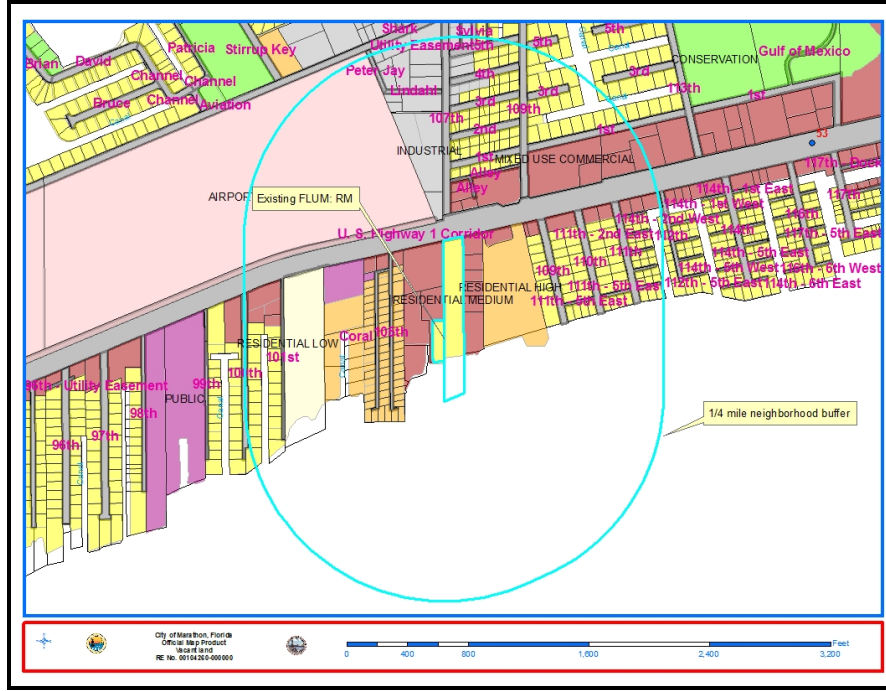
End Notes:

1. The source of the future land use analysis based on carrying capacity limitations can be found in the Monroe County Comprehensive Plan Technical Document (Data and Analysis) Section 2.4 (pp. 2-86 – 2-95).
2. City of Marathon, Comprehensive Plan Data and Analysis, page 10.

EXHIBIT 1

EXISTING & PROPOSED FLUM MAPS

Existing FLUM



Proposed FLUM

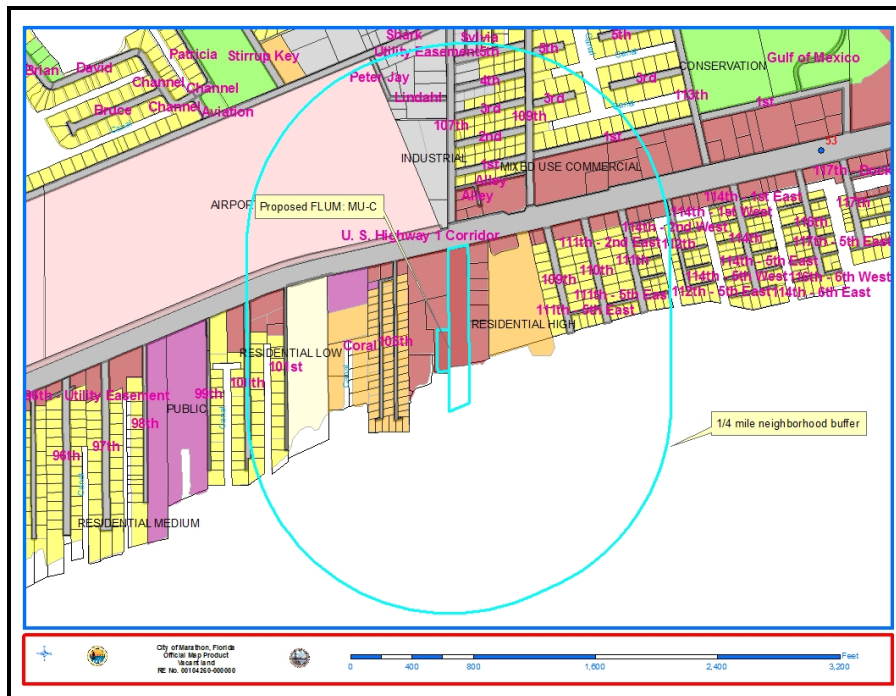


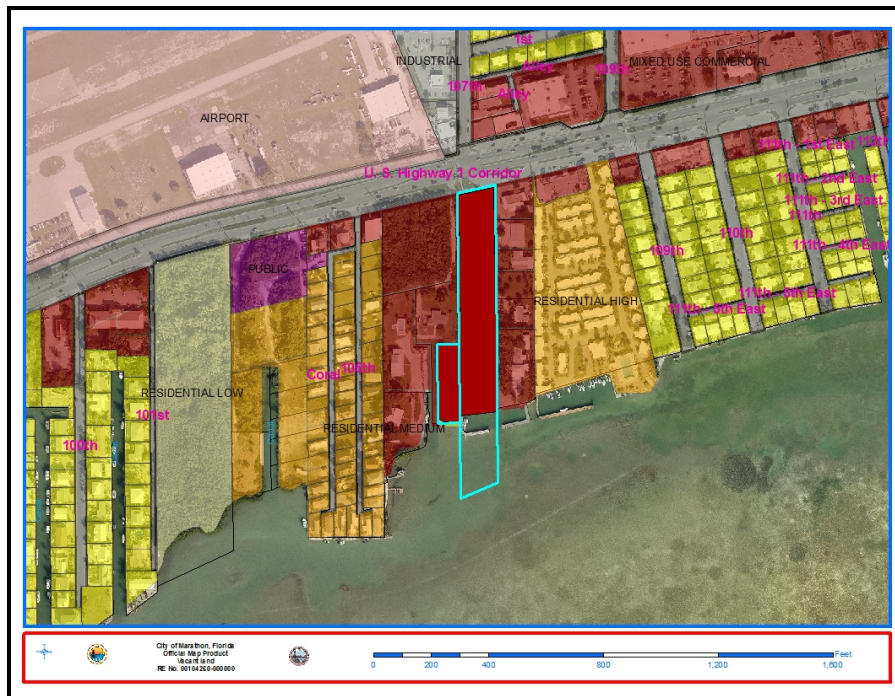
EXHIBIT 2

EXISTING & PROPOSED FLUM MAPS

Existing FLUM



Proposed FLUM



Proposed Use: Homes and storage facility

PROJECT DATA

TOTAL UPLAND AREA	217,487 SQ. FT.	100%
PROPOSED IMPERVIOUS AREA		
HOMES 1-16	26,912 SQ. FT.	
STORAGE FACILITY	8,000 SQ. FT.	
ADA PARKING	944 SQ. FT.	
ENTRANCE ROUND-A -BOUT	6360 SQ. FT.	
BOAT RAMP	735 SQ. FT.	
DUMPSTER	372 SQ. FT.	
POOL, DECK, AND EQUIPMENT	5011 SQ. FT.	
TIKI	300 SQ. FT.	
EXISTING 107TH ST. ROAD ON SITE	6419 SQ. FT.	
EXISTING IMPERVIOUS SHORELINE COVERAGE	7656 SQ. FT.	
TOTAL IMPERVIOUS AREA	62708 SQ. FT.	28.8%
REQUIRED OPEN SPACE AREA 20%	43497 SQ. FT.	20%
OPEN SPACE AREA PROVIDED (PERVIOUS AREA)	155182 SQ. FT.	71.2%

LAND USE		PROPOSED
MARKET RATE RESIDENTIAL UNITS		16
STORAGE FACILITY		8000 SF.

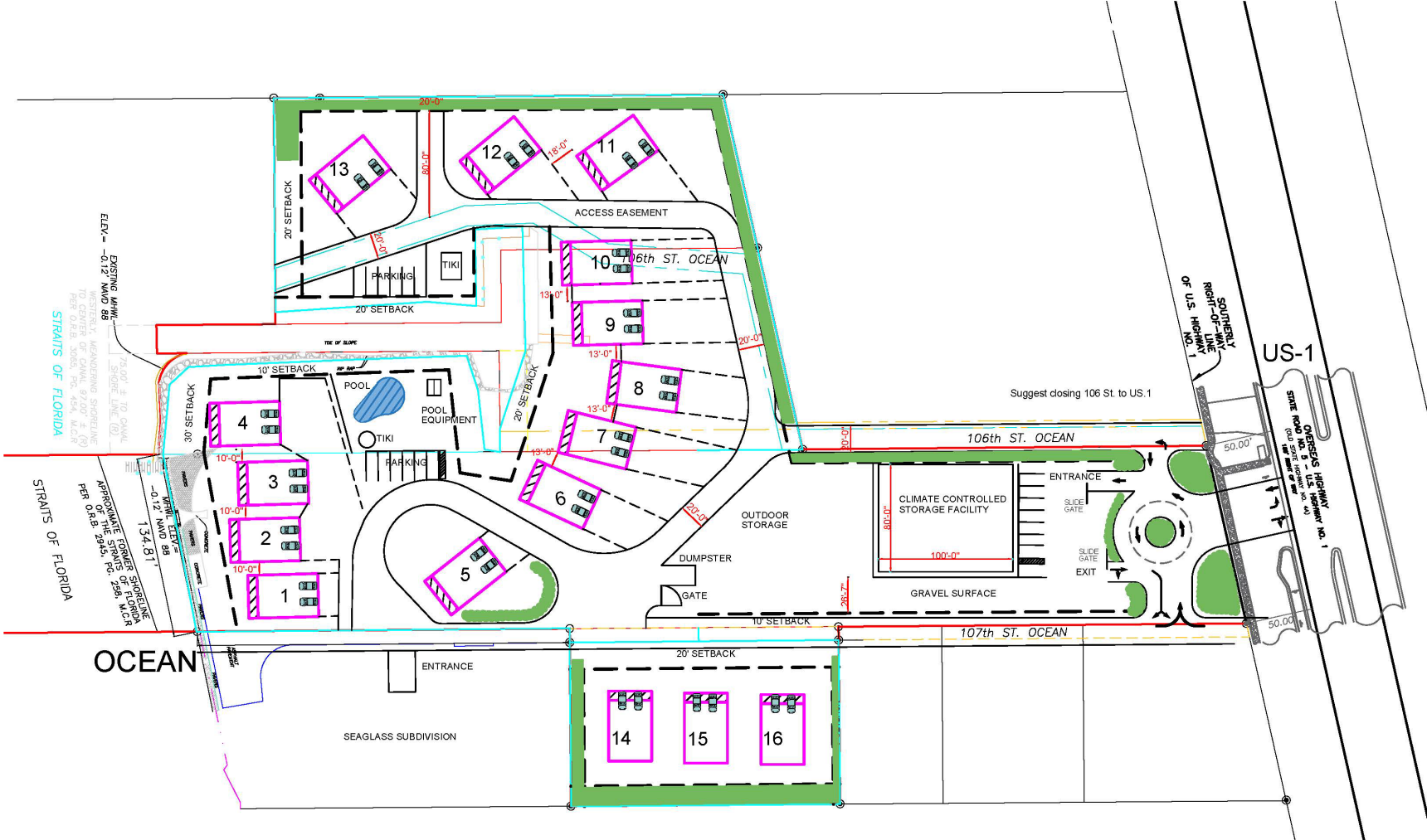
PARKING SPACES	REQUIRED	PROPOSED
STORAGE PARKING		8
(16) SFR	32	32
AMMENITY PARKING	0	12
TOTAL PARKING		68

SHORELINE SETBACK AREA CALCULATION		
TOTAL SHORELINE SETBACKS	16,890 SQ.FT.	100%
IMPERVIOUS	7656 SQ.FT.	45.3%
PERVIOUS	9234 SQ.FT.	54.7%

GENERAL NOTES

- 1 - FIRE LANE AND INTERNAL ROADS SHALL BE COMPACTED SAND OR GRAVEL
- 2 - PARKING LOTS EXCEPT FOR ADA PARKING AT POOL AND STORAGE PARKING SHALL BE COMPACTED SAND OR GRAVEL
- 3 - NO CHANGE TO EXISTING MARINA EXCEPT TO REPAIR HURRICANE DAMAGE
- 4 - ALL TURN RADIUS ON INTERNAL ROADS TO MEET FIRE TRUCK REQUIREMENTS
- 5 - INCLUSIONARY HOUSING SATISFIED BY OFF SITE EMPLOYEE HOUSING OR IN LIEU FEE.

Proposed Site Plan



EXISTING WALKWAY
ELEV. = -0.12' NAVD 88
RESISTANCE AND/OR SURFACING SUGGESTED
PER O.R.B. 3068, P.C. 454, M.C.R.
APPROXIMATE STRAITS OF FLORIDA
PER O.R.B. 2945, P.C. 358, M.C.R.
WATER TABLE =
-0.12' NAVD 88
134.81'

STRAITS OF FLORIDA
STRAITS OF FLORIDA

OCEAN

SEAGLASS SUBDIVISION

Suggest closing 106 St. to US.1

SOUTHERLY
RIGHT-OF-WAY
OF U.S. HIGHWAY NO. 1

US-1

OVERSEAS HIGHWAY NO. 1
STATE ROAD 305E
50.00'

CLIMATE CONTROLLED
STORAGE FACILITY

GRAVEL SURFACE

OUTDOOR STORAGE

DUMPSTER

GATE

ENTRANCE

SLICE GATE

SLICE GATE

EXIT

100'-0"

107th ST. OCEAN

106th ST. OCEAN

16th ST. OCEAN

ACCESS EASEMENT

PARKING

20' SETBACK

10' SETBACK

30' SETBACK

10'-0"

10'-0"

10'-0"

10'-0"

10'-0"

20' SETBACK

ENTRANCE

20'-0"

18'-0"

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Sponsored By: Garrett

Planning Commission Public Hearing Date: July 13, 2021

City Council Public Hearing Date: August 10, 2021

October 12, 2021

Enactment Date: October 12

**CITY OF MARATHON, FLORIDA
ORDINANCE 2021-19**

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA AMENDING THE FUTURE LAND USE MAP (FLUM) FROM RESIDENTIAL MEDIUM (RM) TO MIXED USE COMMERCIAL (MUC) FOR PROPERTY DESCRIBED AS PART GOV'T LOT 1 AND PART GOV'T LOT 2, PART PARCEL 3 AND ADJACENT BAY BOTTOM SOUTH OF AND ADJACENT PART GOV'T LOT 1, KEY VACCAS, MARATHON, MONROE CO., FLORIDA, HAVING REAL ESTATE NUMBER 00104260-000000; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF COMMUNITY AFFAIRS; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF COMMUNITY AFFAIRS.

WHEREAS, pursuant to the provisions of Chapters, 163, 166 and 380 Florida Statutes, the City of Marathon, Florida (the "City") proposes to amend the City's Future Land Use Map (the "Map") to change the land use district designation of property owned by Mr. David LaClair and/or Mr. Charles LaClair, legally described as Part Gov't Lot 1 and Part Gov't Lot 2, Part Parcel 3 and Adjacent bay Bottom South of and Adjacent Part Gov't Lot 1, Key Vaccas, Marathon, Monroe Co., Florida; and

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

WHEREAS, pursuant to Chapter 163, *Florida Statutes*, and Sections 101.02 and 102.22 of the Code, the Planning Commission sitting as the Local Planning Agency publicly considered the proposed Map amendment on July 19, 2021 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 July 19, 2021 at a duly noticed public hearing, and recommended that the amendment be transmitted to the Florida Department of Economic Opportunity (DEO) for review; 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 Florida Department of Economic Opportunity forwarded a letter of “No Objection” to Ordinance 2021-19, thus approving a FLUM amendment for the subject parcels from Residential Medium (RM) to Mixed Use Commercial (MUC); and

WHEREAS, the City Council finds that approval of the proposed Map amendment is in the best interest of the City and complies with applicable laws and is consistent with the South Florida Regional Plan, the State Plan, Chapter 163, *Florida Statutes*, the principles for guiding development in the Florida Keys Area of Critical State Concern, the goals, objectives, and policies of the Plan, 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. The proposed FLUM Map designation change of the Property is approved in its first reading from its current designation of Residential Medium (RM) to Mixed Use Commercial (MUC), as illustrated on the attached Exhibit 1.

SECTION 3. The City Council directs staff to transmit the revised Map reflecting the Map amendment, and all data and analysis supporting the Map amendment, to the Department of Economic Opportunity, in its capacity as the State Land Planning Agency, as required by Chapters 163 and 380, *Florida Statutes*.

SECTION 4. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 5. The effective date of this FLUM Amendment, if the amendment is not timely challenged, shall be the date the state land planning agency posts a notice of intent determining that this amendment is in compliance. If timely challenged, or if the state land planning agency issues a notice of intent determining that this amendment is not in compliance, this amendment shall become effective on the date the state land planning agency or the Administration Commission enters a final order determining this adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the State Land Planning Agency.

**ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA,
THIS 12TH DAY OF OCTOBER, 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:**

Steve Williams, City Attorney