

CITY COUNCIL AGENDA STATEMENT



Meeting Date: November 9, 2021
To: Honorable Mayor and City Council
From: Brian Shea, Planning Director
Through: George Garrett, City Manager

Agenda Items:

Ordinance 2021-27 An Ordinance Of The City Of Marathon, Florida Amending The Future Land Use Map (FLUM) From Residential Medium (RM) To Mixed Use-Commercial (MU-C) For The Property Described As Block 2, Lot 2 First Addition to Seacrest, Key Vaca Marathon, Monroe County, Florida, Having Real Estate Number 00339240-000000; 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 2021-28 An Ordinance Of The City Of Marathon, Florida Amending The Zoning Designation From Residential Medium (RM) To Mixed Use (MU) For The Property Described As Block 2, Lot 2 First Addition to Seacrest, Key Vaca, Marathon, Monroe County, Florida, Having Real Estate Number 00339240-000000; 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: Ed Sims, Gunnar Holdings LLC

LOCATION: The subject property is located on 69th Street, nearest Mile Marker 51 and is legally described as Block 2, Lot 2 First Addition to Seacrest, Key Vaca, Marathon, Monroe County, Florida, Having Real Estate Number 00339240-000000.

ADDRESS: 420 69th Street

REQUEST: Amend the Future Land Use Map (FLUM) for the subject property from Residential Medium (RM) to Mixed Use Commercial (MU-C)

Rezone subject property from Residential Medium (RM) to Mixed Use (MU).

LOT AREA: The aggregated size of the parcels is approximately 0.23 acres (10,000 sq./ft.)

Location Map



BACKGROUND:

These parcels were zoned as Improved Subdivision (IS) 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 (MU-C) designation along US1. The rezoning is not addressed in this application.

The applicants have stated that the FLUM and zoning designation should be the same as the adjacent owned commercial property that the parking lot is used for.

Pre 2005 OLD FLUM	Pre 2007 OLD ZONING	2005 CURRENT FLUM	2007 CURRENT ZONING
Mixed Use Commercial	Improved Subdivision	Residential Medium	Residential Medium

Current and Proposed Future Land Uses and Zoning

Future Land Use Map Designation

Current: Residential Medium (RM)
 Proposed: Mixed Use Commercial (MU-C)

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 69th St and consists of one parcel. The property is located next to a property under the same ownership that is zoned Mixed Use. Adjacent land use to the West and North is Mixed Use. To the East is Residential High and South is Residential Medium. 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)	Mixed Use (MU)	Vacant commercial
East	Residential Medium (RM)	Residential Medium (RM)	Single family residential
South	Residential Medium (RM)	Residential Medium (RM)	Single family residential
West	Mixed Use Commercial (MUC)	Mixed Use (MU)	Utility and commercial.

Existing Habitat

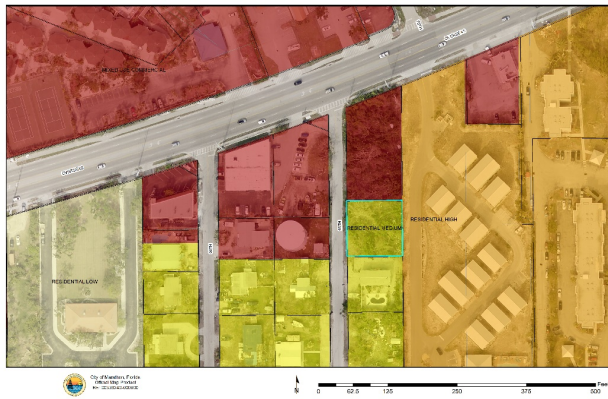
The existing conditions maps indicate the properties are designated as hammock which is potential habitat for the Eastern Indigo Snake, Key Tree Cactus, and the Stock Island Tree Snail. A recent vegetation survey showed the site to be primarily covered in invasive exotics. An application was made to remove these invasives from the sites. 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.

FEMA

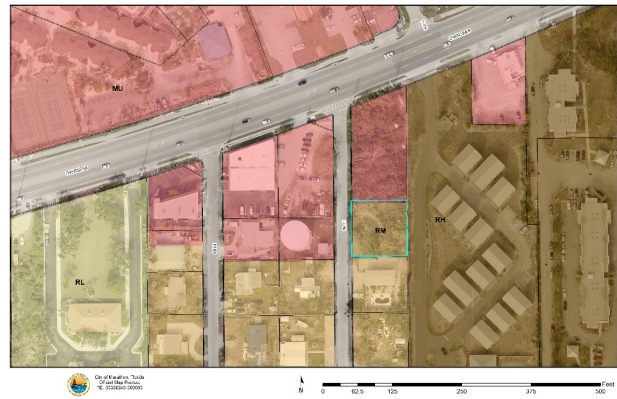
The properties are within the AE 6 flood zone.

DEVELOPMENT ANALYSIS:

Current FLUM: Residential Medium (RM)



Zoning: Residential Medium (RM)



Policy 1-3.1.4 Residential Medium of the Comprehensive Plan states “the principal purpose of the Residential Medium land use category is to provide for medium density residential development.”

Residential Medium Allowable Density:

Market Rate – 5 Units per acre

Affordable – 10 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 AND ZONING 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. This property is recognized potential habitat for the Eastern Indigo Snake, Key Tree Cactus, and the Stock Island Tree snail. Any development is subject to the requirements of the FEMA-FWS agreement. It is 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.

The proposed FLUM amendment and zoning 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 or zoning change. Therefore, the FLUM and zoning 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 amendment and zoning 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 amendment 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.

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 FCAA 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 FCAA'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 FCAA'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 and zoning 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 amendment and zoning 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 amendment and zoning 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 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 amendment and zoning 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 is not in the Coastal High Hazard Area (CHHA).

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. The FLUM change encourages increased developed outside the CHHA.

- **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 and zoning change 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 amendment and zoning change will have no adverse impact on ports management or the City's Marina Siting Plan. The subject property provides no opportunity for Marina development.

The proposed FLUM amendment and zoning change 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 amendment 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 amendment 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 and zoning change 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 parcel located at 420 69th Avenue. Currently the property is designated as Residential Medium (RM). The applicant is requesting a change to Mixed Use Commercial (MUC), and subsequent rezoning of the parcel.

Staff finds the proposed FLUM amendment and zoning 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 for transmittal of the request to amend the Future Land Use Map for this parcel from Residential Medium (RM) to Mixed Use Commercial (MUC) and rezone the parcel from Residential Medium (RM) to Mixed Use (MU). Planning Commission recommended approval (4-0), and staff is still recommending approval.

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.

Sponsored By: Garrett
Planning Commission Public Hearing Date: Oct 18, 2021
City Council Public Hearing Dates: Nov 9, 2021
TBD
Enactment Date: TBD

**CITY OF MARATHON, FLORIDA
ORDINANCE 2021-27**

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA AMENDING THE FUTURE LAND USE MAP (FLUM) FROM RESIDENTIAL MEDIUM (RM) TO MIXED USE-COMMERCIAL (MU-C) FOR THE PROPERTY DESCRIBED AS BLOCK 2, LOT 2 FIRST ADDITION TO SEACREST, KEY VACA MARATHON, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00339240-000000;; 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 Future Land Use Map (the "Map") to change the land use district designation of property owned by Gunnar Holdings LLC, from Residential Medium (RM) to Mixed Use-Commercial (MU-C); 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 FLUM Map amendment on October 18, 2021 at a duly noticed public hearing, and has recommended approval of the proposed FLUM 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 November 9, 2021 and ~~XXX~~ 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 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 Us-Commercial (MU-C) (See Attachment “A”).

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 XTH DAY OF X 2021.

THE CITY OF MARATHON, FLORIDA

, Mayor

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

ATTACHMENT A

