

CITY COUNCIL AGENDA STATEMENT



Meeting Date: March 8, 2022
To: Honorable Mayor and Council Members
From: George Garrett, City Manager
Through: Brian Shea, Planning Director

Agenda Item: **Resolution 2022-19**, Consideration Of A Request By LR Latitude, LLC For A Conditional Use Permit, Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (“The Code”) Entitled “Conditional Use Permits”, Authorizing The Development Of Fourteen (14) Residential Units On Properties Located At 990 41st Street Gulf, Which Are Legally Described As Part Of Marathon Beach Subdivision, Key Vaca Lots 9 & 10, Block 1, And Bay Bottom North of & Adjacent to Lots 9 & 10 Block 1, Monroe County, Florida, Having Real Estate Numbers 00336670-000000, And 00336680-000000. Nearest Mile Marker 49.

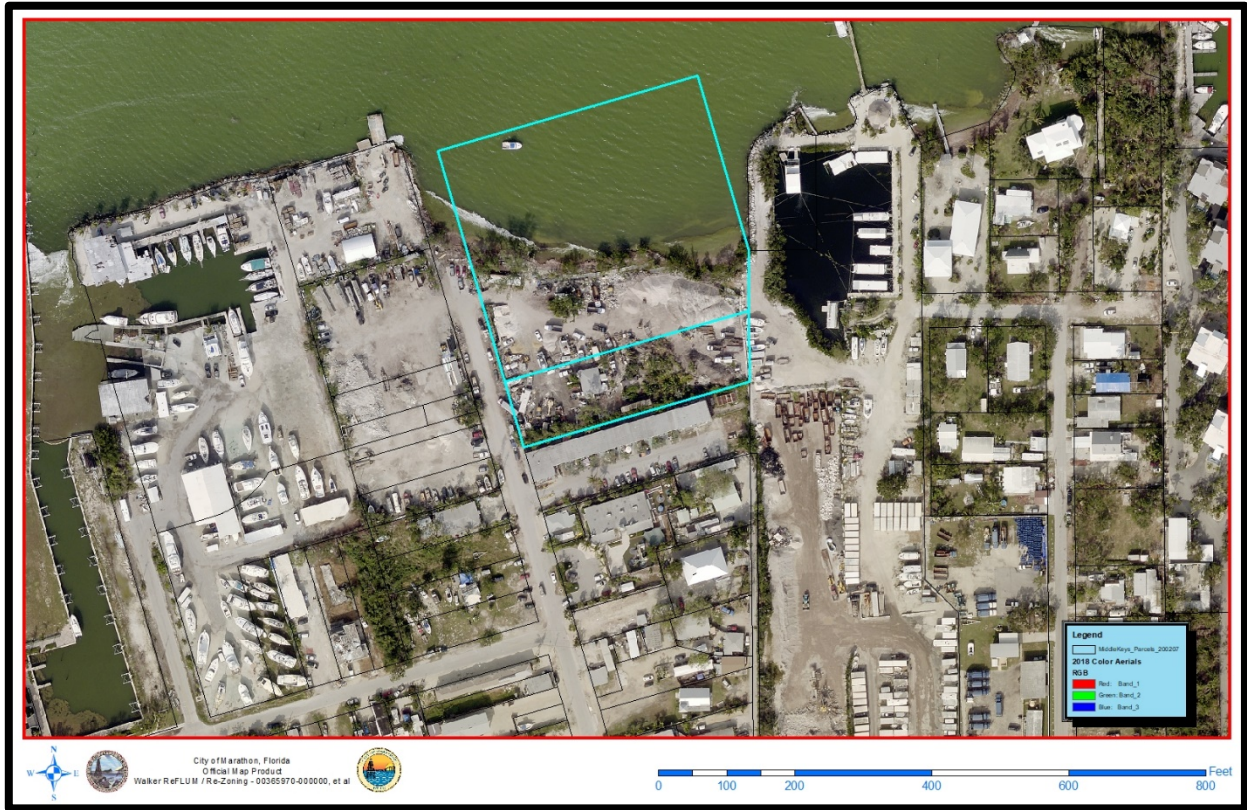
APPLICANT/ OWNER: LR Latitude, LLC

AGENT: Barton Smith

LOCATION: The project site is located at 41st Street Gulf at nearest mile marker 49. See Figure 1.

REQUEST: A Conditional Use Permit for the authorization of development of the subject property having the real estate numbers 00336670-000000 And 00336680-000000.

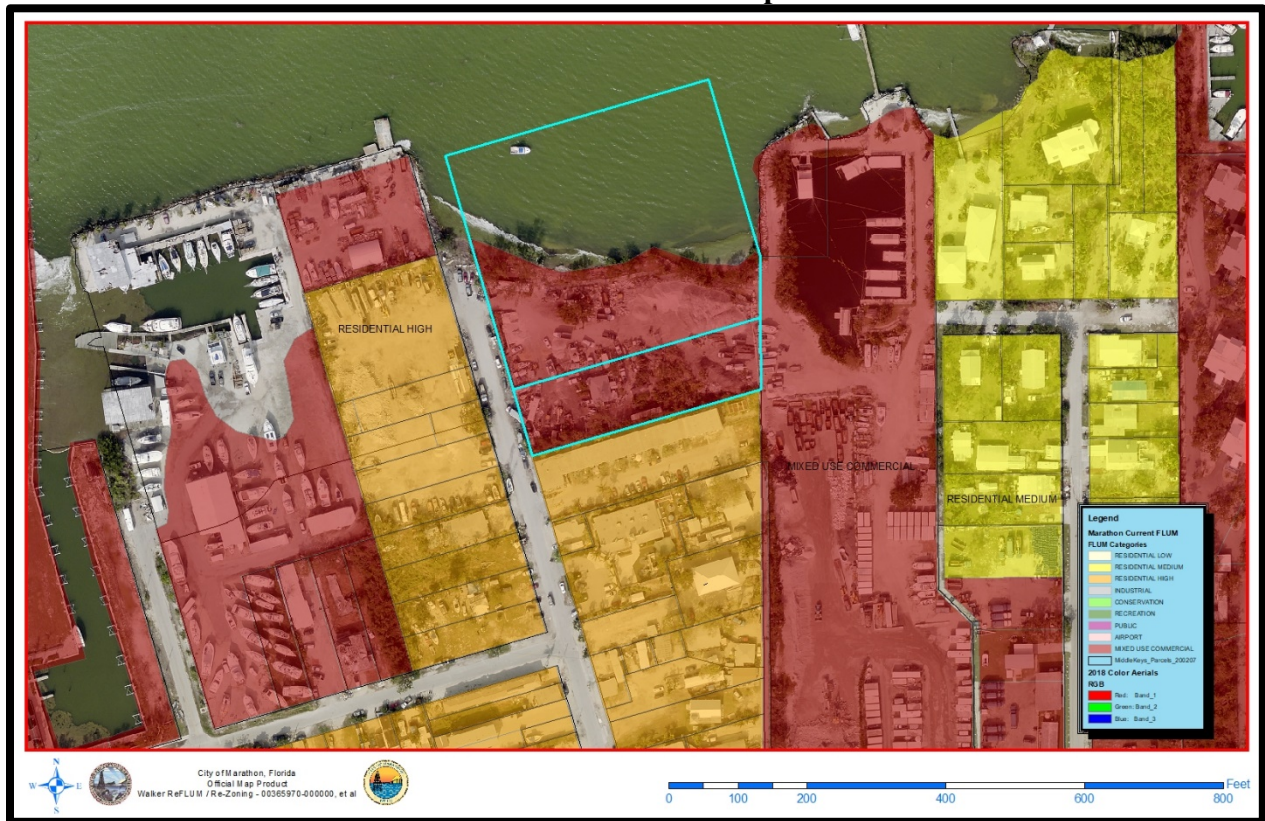
Figure 1
Project Site



FUTURE LAND USE MAP DESIGNATION:

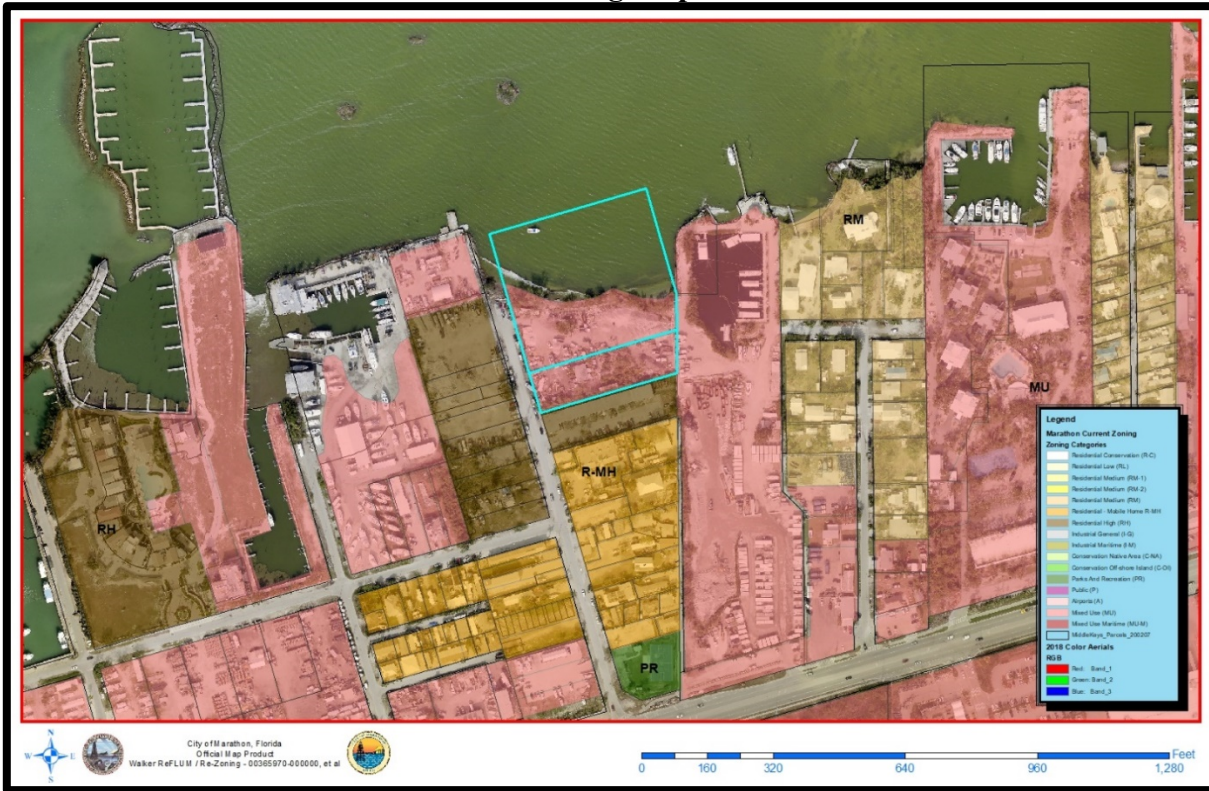
Mixed Use Commercial (MUC) See Figure 2.

**Figure 2
Future Land Use Map**



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

Figure 3
Zoning Map



LOT SIZE:

Total acreage Approx. 2.02 acres inclusive of 1.94 acres of submerged land.

SURROUNDING ZONING AND USES:

	<u>Zoning</u>	<u>Use</u>
North	NA	Submerged land/Gulf of Mexico
West	Mixed Use, Residential High	Boat Works Investments LLC
East	Mixed Use	Storage Yard, Vacant Land, And Marina
South	Residential High	Tropical Isle Apartments

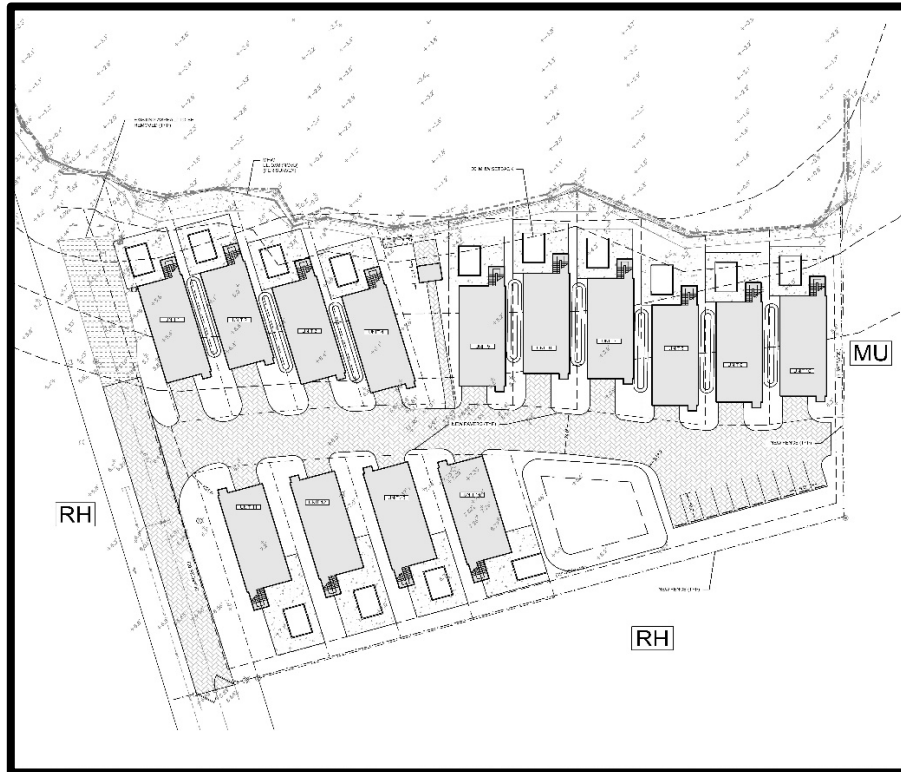
EXISTING CONDITIONS:

The project site consists of two parcels. The parcels are currently vacant with one concrete block structure.

PROPOSED REDEVELOPMENT:

The Applicant requests to develop Fourteen (14) residential housing units. See Figure 4 for Site Plan layout.

**Figure 4
Proposed Redevelopment Site Plan**



BACKGROUND:

The proposed project seeks to redevelop the commercial property into fourteen (14) residential units. The applicant will be required to seek any additional allocations that have not been identified to be on the site in order to complete the project.

All conditions 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 authorization of a mixed residential development, including fourteen (14) residential housing units 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 multifamily residential uses are permitted only where approved through the Conditional Use Permit process. Conditional Use Permit review is intended to allow a broader view of the potential impacts of a project on adjacent uses and on City concurrency related resources such as road capacity, solid waste, sewer, and potable water availability.

Table 103.15.2 in the Land Development Regulations establishes constraints on density and intensity allowed in the MU district based on the types of uses proposed. The existing upland area is 88,169 sq. ft. which according to the MU Zoning District allows for up to twelve units. To achieve fourteen units on site the applicant would have to transfer density through the TDR process. The comprehensive plan policy number 1-3.5.16 states that the density cannot be increased through this process beyond 20%. With a maximum 20% increase to density up to fourteen units can be built on site.

The project as proposed meets the basic definition of development in the MU zoning district and will not exceed any intensity constraints imposed on the type of proposed.

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

- To achieve 14 units a TDR must occur. Without TDR approval only 12 units can be built on site.

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 mixed use development residential housing, which is consistent with the Mixed-Use classification.

The existing land use pattern in the project vicinity consists of commercial storage lot and vacant land to the east; the bay to the north; residential uses to the west; and residential uses directly south.

Otherwise, the development of the site will result in significant improvement to the quality of development, 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. Landscape buffers are proposed along the entire length of the adjacent roads.

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

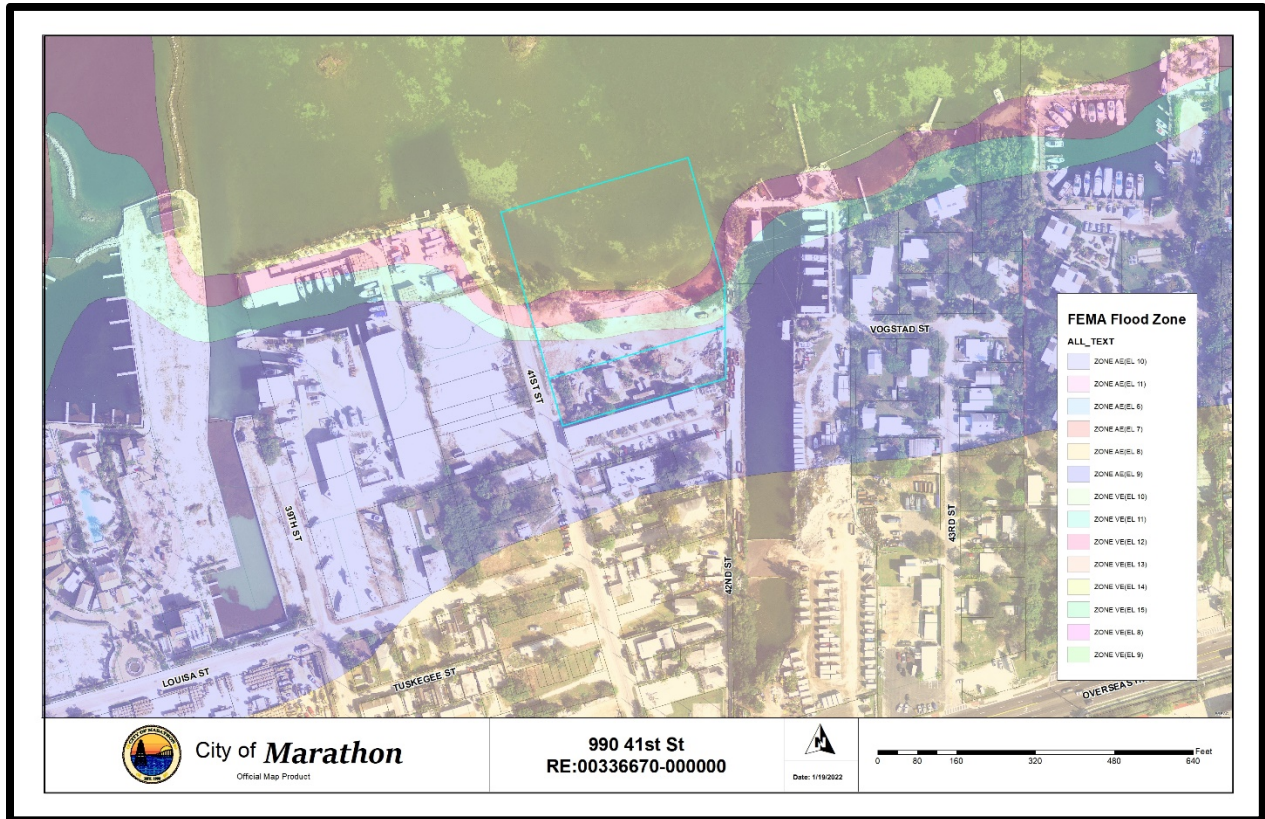
C. The proposed use shall not adversely affect the health, safety, and welfare of the public;

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

Plans submitted with the project are suitable for the Conditional Use Approval as they relate to Chapter 107, Article 12, 100 Year Floodplain. Figure 5 shows the flood zones for this property. The proposed plans show the structures elevated above flood as required. The Flood Zones on the project site range from AE9 to VE14. Final review of floodplain compliance will occur as part of building permit issuance.

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

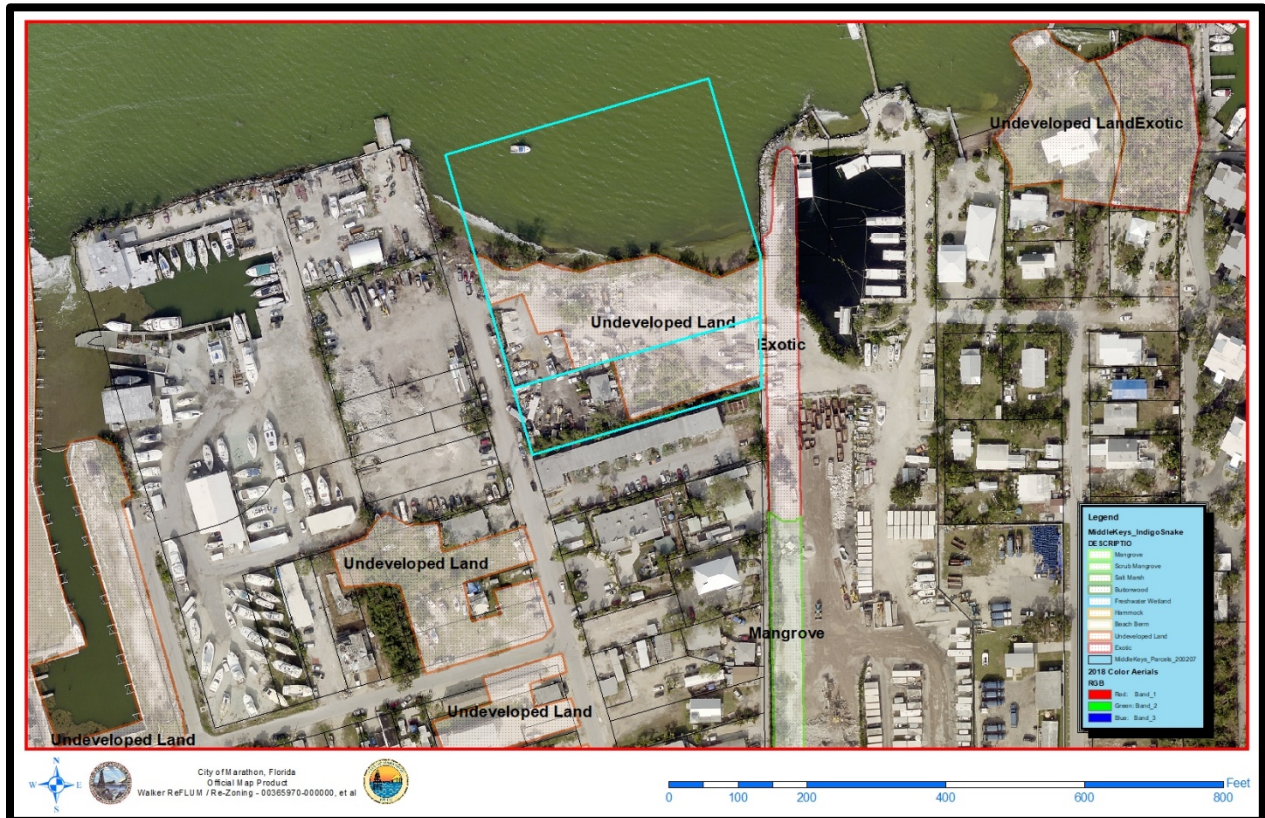
**Figure 5
Flood Zones**



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 City’s Land Cover/Habitat Maps indicate a mix of land coverages characterizing the site as “developed” with some native and exotic vegetation throughout. Figure 6 depicts the species focus area. Though found within a ‘Species Focus Area’ as defined in the settlement for FEMA-FWS lawsuit, “undeveloped land” falls out of the consideration in the species assessment guides thus having “no impact” on the species concern, the Eastern Indigo Snake.

**Figure 6
Focus Area Habitat**



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. All exotic vegetation located on site will be removed.

The property is listed on the FEMA-FWS list for the Indigo Snake because it is undeveloped land.

Project design requires containing all storm water on the property as required by Code. The submitted plans show a berm surrounding the interior of the property preventing storm water from leaving the property and flowing into adjacent properties, city ROW, or the Gulf of Mexico.

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

- Staff requires that upon planning review, if the redevelopment is found to have any effect on the Eastern Indigo Snake Habitat, then the prescribed protection measures must be undertaken, and the information poster posted on site.
- Development shall provide enhance water quality equal to the runoff from 4" of rainfall in lieu of retention of the 25yr-72hr storm event, and discharge excess runoff to open water.

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;

A traffic study was submitted for the proposed development on this site. The trip generation analysis shows that the project could generate an additional 170 total trips per day. The traffic study shows that the proposed development will not have an adverse impact on the operating characteristics of US 1, nor will it inhibit the flow of traffic traveling through Marathon.

Table 1 Trip Generation Analysis

Daily															
LAND USE	ITE CODE	INTENSITY	TRIP GENERATION RATE ⁽¹⁾	IN	OUT	TOTAL TRIPS			PASS BY TRIPS ⁽¹⁾				NEW TRIPS		
						IN	OUT	TOTAL	IN	OUT	TOTAL	%	IN	OUT	TOTAL
PROPOSED USES															
Single Family Home	210	14 DU	$\text{Ln}(T) = 0.92 \text{Ln}(X) + 2.71$	50%	50%	85	85	170	0	0	0	0%	85	85	170
TOTAL						85	85	170	0	0	0		85	85	170
AM Peak Hour															
LAND USE	ITE CODE	INTENSITY	TRIP GENERATION RATE ⁽¹⁾	IN	OUT	TOTAL TRIPS			PASS BY TRIPS ⁽¹⁾				NEW TRIPS		
						IN	OUT	TOTAL	IN	OUT	TOTAL	%	IN	OUT	TOTAL
PROPOSED USES															
Single Family Home	210	14 DU	$T = 0.71 (X) + 4.80$	25%	75%	4	11	15	0	0	0	0%	4	11	15
TOTAL						4	11	15	0	0	0		4	11	15
PM Peak Hour															
LAND USE	ITE CODE	INTENSITY	TRIP GENERATION RATE ⁽¹⁾	IN	OUT	TOTAL TRIPS			PASS BY TRIPS ⁽¹⁾				NEW TRIPS		
						IN	OUT	TOTAL	IN	OUT	TOTAL	%	IN	OUT	TOTAL
PROPOSED USES															
Single Family Home	210	14 DU	$\text{Ln}(T) = 0.96 \text{Ln}(X) + 0.20$	63%	37%	10	5	15	0	0	0	0%	10	5	15
TOTAL						10	5	15	0	0	0		10	5	15

(1) Source: ITE Trip Generation Manual, 10th Edition.

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.

The Fire Marshal has reviewed the plans and found them sufficient for Conditional Use review. The applicant is providing fire and rescue access for the vehicles, as noted in the proposed site plan. Water supply for fire suppression shall be provided through fire hydrants. This will be met through compliance with NFPA 1 and NFPA 101.

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

- All conditions of the Fire Marshall must be met prior to permit issuance.
- Developer shall install stop signs and stop bars on 41st Street intersection with Louisa Ave, creating a 3-way stop. This is required as a traffic calming device to reduce the speed generated from the additional units in front of the existing daycare facility on 41st Street.

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

Parking requirements are outlined in Section 107.46 (Parking Schedule). The applicant has proposed parking spaces to be located primarily under the townhome structures. The applicant proposes 10 parking spaces for tenants and guests of the units.

The Code also requires bicycle parking to be provided for educational facilities, multifamily dwellings, commercial, institutional, and industrial uses, as well as all developments adjacent to a bike path, at a rate of one space for every ten parking spaces, per Section 107.48. The bike racks must be shown on the permit application site plan.

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

- All required parking spaces must be shown on the final site plan prior to permit issuance.
- City approval is required for bike racks prior to Building Permit Approval.

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

The proposed use has no known impacts to the health safety and welfare of the public. No detrimental noise or glare is expected to be generated by the proposed use. Appropriate screening and buffering measures are proposed.

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

- A final lighting plan must be submitted prior to permit issuance.
- A final landscape plan must be submitted prior to permit issuance.

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

Section 107.39 requires that all dumpsters be fully enclosed and screened. The site plan indicates that all dumpsters are (hidden) screened.

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

- Dumpsters are to be screened per code.

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 existing property is connected to public sewer system. The applicant must work with the Utility Department to determine the additional required infrastructure.
- Water: The Florida Keys Aqueduct Authority already provides potable water for the facility.
- Solid Waste: Marathon Garbage Service already provides 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.
- Recreation and Open Space: This redevelopment already has a de minimis impact on recreation and open space.
- Roadways: The applicant submitted an appropriate traffic study showing minimal impact to traffic flow along US1; therefore, it poses no further impact on transportation facilities.
- Educational Facilities: This development as proposed will have a de minimus impact on educational facilities.

The Applicant has provided letters of coordination with all necessary utilities with the general determination that all required services may be provided and are adequate for the development of the project.

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

- The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year from the effective date;
- The Applicant must obtain and transfer the housing units in excess of what the City has recognized as legally established on the property, to be transferred via the Transfer of Building Rights (TBR's), BPAS process, or any other legally established process prior to building permit issuance. THE APPROVAL OF THE REQUESTED CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT AMENDMENTS DO NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF ANY MARKET RATE RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT.
- Will be required to upgrade existing vacuum main approximately 82 LF of 4" main to 6" and tie in any effected properties.

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 property is cross zoned. Where the existing zoning buffers should be located, the property is owned by the same owner. These buffers would therefore not be required if the property is unified through a unity of title.

Section 107.71 C. requires that parcels not on US1 provide a Type 3 Streetscape Treatment for all parcels along any other City street. The proposed landscape plan meets the minimum requirements. According to the Code, Two (2) canopy trees and two (2) understory trees per 100 linear feet of property frontage, located within a ten-foot-wide landscape buffer. Additionally, all parking not located to the rear of buildings shall be screened from the right-of-way by a landscaped buffer along the streets, including a continuous hedge or combination hedge and earth berm providing a three-foot high visual screen within two (2) years of planting.

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’.

Again, a unity of title will be required for the project.

Parking area landscaping is required by Section 107.66 of the Code. The preliminary landscape plan meets the requirements of the code. The City Biologist has reviewed the submitted parking area landscape plan and has found it to be in compliance.

Per buffer yard requirements in the LDR’s this property will require a medium buffer yard between the mixed-use property and the existing residential high property. Therefore the 343 feet necessitates 14 canopy trees, 7 understory trees, and 55 shrubs. Additionally, as with any required buffer yard, there can be no structures within the buffer. This necessitates the removal/relocation of the existing trailer that is on the site, which will occur with the redevelopment.

The submitted plans do not depict all the items listed above making it **not in compliance**. However, the noted changes can be made which would make the request **in compliance**.

- A unity of title is required for the properties.
- Final landscaping plan showing buffers is required prior to issuance.

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. The applicant proposes window lettering for the individual commercial space of the project.

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 developed; therefore, a twenty percent open space requirement applies. To the greatest extent possible, the Applicant will be required to protect regulated trees, pursuant to Chapter 106, Article 2 of the LDRs. According to calculations provided by the applicant, 58.3 % of the project area will be open space. The LDRs require a minimum of 20% under the current condition of the sites.

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

9. General compatibility with surrounding properties; and

The site previously contained structures that were demolished. The project is a redevelopment of commercial uses and into residential uses. Adjacent uses include a vacant residential lot with

approvals for residential development and existing residential apartments and neighborhood. Additionally adjacent and nearby uses are existing storage yards and trap storage on the mixed-use parcels. 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 42'.

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

- Staff suggests that the required landscaping for the medium buffer be selected to utilize vegetation that can grow to a height to screen the areas adjacent to the portion of the apartments that are two and three stories high.

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

Chapter 104 lists specific regulations for uses. The residential housing must meet the following sections as applicable; Section 104.48 (Residential Dwelling Units). The following criteria are applicable to these uses:

A. Two (2) side yards are required for stacked duplexes.

B. Townhouses are limited to ten (10) dwelling units per row, except for affordable housing.

C. The private yard area for rooftop balcony dwelling is provided by the roof or balconies of the structure.

D. The total area of the mixed-use or commercial apartments, including patios and access way shall not exceed the area covered by the ground floor and any covered walks or arcades.

E. Each unit shall have access to a balcony or patio that is separate from the access to the unit, provides adequate privacy and the size shall be two-tenths (2/10) of unit floor area or a minimum of 60 square feet in size.

F. The patio area may be wholly or partially replaced by the provision of a recreation yard provided on site. Recreational yards shall be a minimum one-tenth (1/10) of unit floor area.

Therefore, with the conditions noted above the request is **in compliance**.

CONCLUSION:

The Conditional Use Approval process 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 is consistent with the existing land use patterns and is expected not to produce any nuisances, traffic congestion, or threat to public health, safety, or welfare. 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:

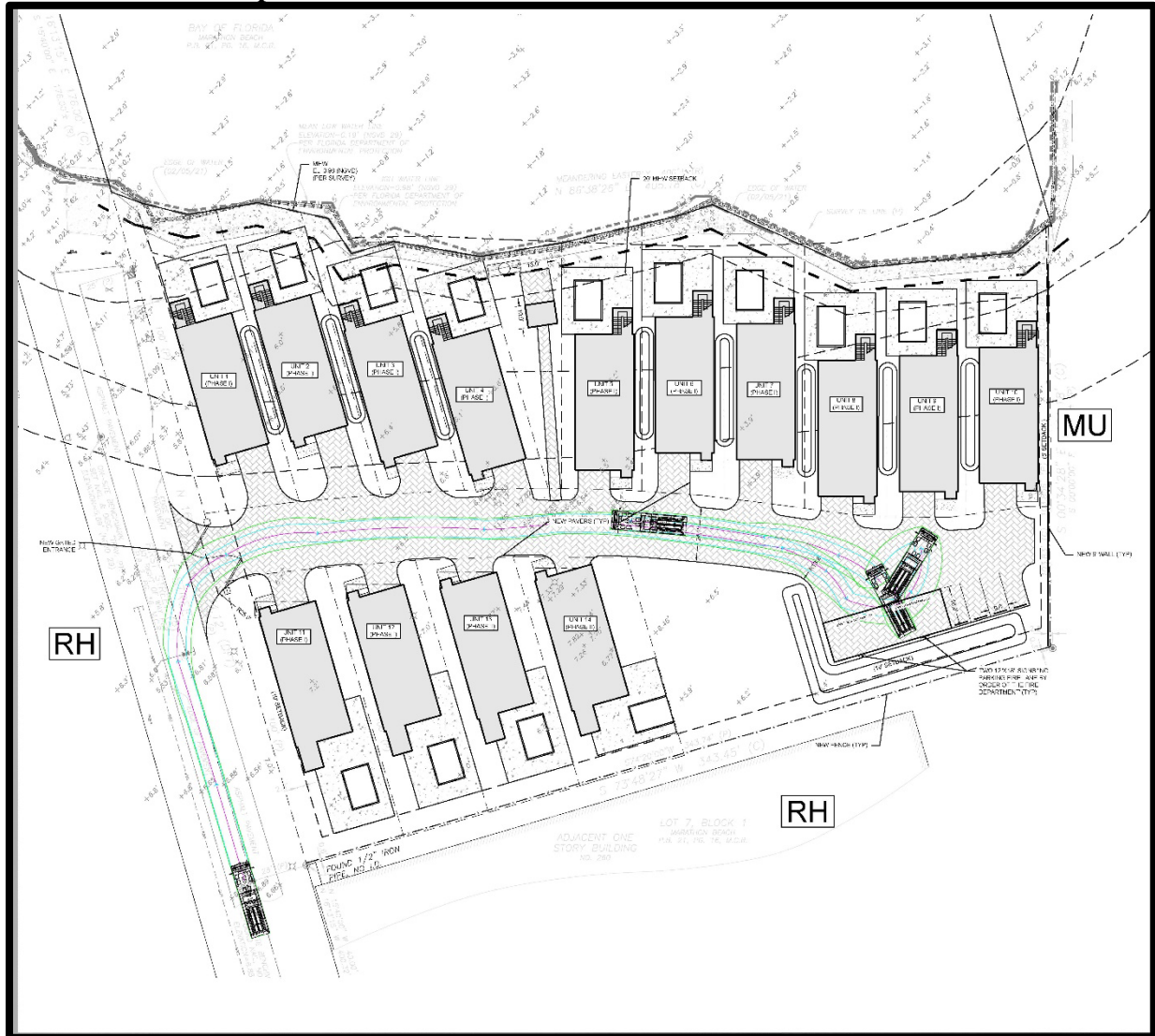
The Planning Commission recommends conditional approval of the mixed development project known as LR Latitude, LLC to City Council (5-0). Planning staff recommends conditional approval of the project to City Council. The proposed conditions of approval are listed below.

Conditions of Approval

1. All conditions of the Fire Marshal must be met prior to permit issuance.
2. All required parking spaces must be shown on the final site plan prior to permit issuance.
3. A final lighting plan must be submitted prior to permit issuance.
4. A final landscape plan must be submitted prior to permit issuance.
5. Dumpsters are to be screened per code.
6. A unity of title is required for the properties.
7. Staff requires that upon planning review, if the redevelopment is found to have any effect on the Eastern Indigo Snake Habitat, then the prescribed protection measures must be undertaken, and the information poster posted on site.
8. All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
9. Staff suggests that the required landscaping for the medium buffer be selected to utilize vegetation that can grow to a height to screen the areas adjacent to the portion of the apartments that are two and three stories high.
10. Two (2) side yards are required for stacked duplexes.
11. Townhouses are limited to ten (10) dwelling units per row, except for affordable housing.
12. The private yard area for rooftop balcony dwelling is provided by the roof or balconies of the structure.
13. The total area of the mixed-use or commercial apartments, including patios and access way shall not exceed the area covered by the ground floor and any covered walks or arcades.
14. Each unit shall have access to a balcony or patio that is separate from the access to the unit, provides adequate privacy and the size shall be two-tenths (2/10) of unit floor area or a minimum of 60 square feet in size.

15. The patio area may be wholly or partially replaced by the provision of a recreation yard provided on site. Recreational yards shall be a minimum one-tenth (1/10) of unit floor area.
16. The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year from the effective date;
17. The Applicant must obtain and transfer the housing units in excess of what the City has recognized as legally established on the property, to be transferred via the Transfer of Building Rights (TBR's), BPAS process, or any other legally established process prior to building permit issuance. THE APPROVAL OF THE REQUESTED CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT AMENDMENTS DO NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF ANY MARKET RATE RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT.
18. To achieve 14 units a TDR must occur. Without TDR approval only 12 units can be built on site.
19. Developer shall install stop signs and stop bars on 41st Street intersection with Louisa Ave, creating a 3-way stop. This is required as a traffic calming device to reduce the speed generated from the additional units in front of the existing daycare facility on 41st Street.
20. Development shall provide enhanced water quality equal to the runoff from 4" of rainfall in lieu of retention of the 25yr-72hr storm event, and discharge excess runoff to open water.
21. Will be required to upgrade existing vacuum main approximately 82 LF of 4" main to 6" and tie in any effected properties.

Attachment A: Proposed Site Plan



**CITY OF MARATHON, FLORIDA
RESOLUTION 2022-19**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA OF A REQUEST BY LR LATITUDE LLC FOR A CONDITIONAL USE PERMIT, PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (LDRS) ENTITLED “CONDITIONAL USE PERMITS”, SEEKING AUTHORIZATION FOR THE DEVELOPMENT OF FOURTEEN (14) RESIDENTIAL UNITS ON PROPERTIES LOCATED AT 990 41ST STREET GULF, WHICH ARE LEGALLY DESCRIBED AS PART OF MARATHON BEACH SUBDIVISION, KEY VACA LOTS 9 & 10, BLOCK 1, AND BAY BOTTOM NORTH OF & ADJACENT TO LOTS 9 & 10 BLOCK 1, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00006670-000000 AND 00336680-000000. NEAREST MILE MARKER 49.

WHEREAS, LR Latitude LLC (The “Applicant”) filed an Application on January 11th, 2022, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS, the applicant has proposed the development of fourteen (14) residential units; and

WHEREAS, the City staff reviewed the Applicant’s request for a Conditional Use Permit determining that the Applicant’s project proposal was in compliance with the City’s Comprehensive Plan and Land Development Regulations (LDRs) and further that there was no substantial impact on the City’s Level of Service (LOS); and

WHEREAS, on the 28th day February 2022, the City of Marathon Planning Commission (the “Commission”) conducted a properly advertised public hearing (the “Public Hearing”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

WHEREAS, on the 8th day March 2022, the City of Marathon 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 13 of the LDRs; and

WHEREAS, the City Council decided that the Applicant’s request for a Conditional Use Permit, subject to the terms of the LDRs and with Conditions imposed, was in c

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 22-1, a copy of which is attached hereto as Exhibit "A", granting a Conditional Use Permit to LR Latitude LLC subject to the Conditions imposed. The Director of Planning is authorized to sign the Development Order on behalf of the City.

Section 3. This Resolution shall take effect immediately upon execution.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 8th DAY OF MARCH 2022.

THE CITY OF MARATHON, FLORIDA

John Bartus, Mayor

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Diane Clavier, City Clerk

(City Seal)

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

Steven Williams, City Attorney

**EXHIBIT “A”
CITY OF MARATHON, FLORIDA
CONDITIONAL USE
DEVELOPMENT ORDER 22-1**

A DEVELOPMENT ORDER APPROVING A REQUEST BY LR LATITUDE LLC FOR A CONDITIONAL USE PERMIT, PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (LDRS) ENTITLED “CONDITIONAL USE PERMITS”, SEEKING AUTHORIZATION FOR THE DEVELOPMENT OF FOURTEEN (14) RESIDENTIAL UNITS ON PROPERTIES LOCATED AT 990 41ST STREET GULF, WHICH ARE LEGALLY DESCRIBED AS PART OF MARATHON BEACH SUBDIVISION, KEY VACA LOTS 9 & 10, BLOCK 1, AND BAY BOTTOM NORTH OF & ADJACENT TO LOTS 9 & 10 BLOCK 1, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00006670-000000 AND 00336680-000000. NEAREST MILE MARKER 49.

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WHEREAS, on the 28th day February 2022, the City of Marathon Planning Commission (the “Commission”) conducted a properly advertised public hearing (the “Public Hearing”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

WHEREAS, on the 8th day March 2022, the City of Marathon 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 13 of the LDRs; and

WHEREAS, the City Council decided 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;

FINDINGS OF FACT:

1. The Applicant has proposed the development of fourteen (14) residential housing units, and;
2. In accordance with Section 102.77 of the Code, the Commission and Council considered and determined the Applicant met the following criteria:
 - a. The proposed use is consistent with the Comprehensive Plan and LDRs;
 - b. The proposed use is compatible with the existing land use pattern and future uses designated by the Comprehensive Plan;
 - c. The proposed use shall not adversely affect the health, safety, and welfare of the public; and
 - d. The proposed conditional use minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment; and
 - e. Satisfactory provisions and arrangements have been made concerning the following matters, where applicable:
 1. Ingress and egress to the property and proposed structures thereon with particular reference to automotive, bicycle, and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;
 2. Off-street parking and loading areas where required, with particular attention to item 1 above;
 3. The noise, glare, or odor effects of the conditional use on surrounding properties;
 4. Refuse and service areas, with particular reference to location, screening, and Items 1 and 2 above;
 5. Utilities, with reference to location and availability;
 6. Screening and buffering with reference to type, dimensions, and character;
 7. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety and compatibility with surrounding properties;
 8. Required yards and other open space;
 9. General compatibility with surrounding properties; and

CONDITIONS IMPOSED:

Granting approval of the Application is subject to the following conditions:

Conditions of Approval

1. All conditions of the Fire Marshal must be met prior to permit issuance.
2. All required parking spaces must be shown on the final site plan prior to permit issuance.
3. A final lighting plan must be submitted prior to permit issuance.
4. A final landscape plan must be submitted prior to permit issuance.
5. Dumpsters are to be screened per code.
6. A unity of title is required for the properties.
7. Staff requires that upon planning review, if the redevelopment is found to have any effect on the Eastern Indigo Snake Habitat, then the prescribed protection measures must be undertaken, and the information poster posted on site.
8. All signs will be reviewed and approved for compliance with the City of Marathon LDR's.

9. Staff suggests that the required landscaping for the medium buffer be selected to utilize vegetation that can grow to a height to screen the areas adjacent to the portion of the apartments that are two and three stories high.
10. Two (2) side yards are required for stacked duplexes.
11. Townhouses are limited to ten (10) dwelling units per row, except for affordable housing.
12. The private yard area for rooftop balcony dwelling is provided by the roof or balconies of the structure.
13. The total area of the mixed-use or commercial apartments, including patios and access way shall not exceed the area covered by the ground floor and any covered walks or arcades.
14. Each unit shall have access to a balcony or patio that is separate from the access to the unit, provides adequate privacy and the size shall be two-tenths (2/10) of unit floor area or a minimum of sixty square feet in size.
15. The patio area may be wholly or partially replaced by the provision of a recreation yard provided on site. Recreational yards shall be a minimum one-tenth (1/10) of unit floor area.
16. The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year from the effective date;
17. The Applicant must obtain and transfer the housing units in excess of what the City has recognized as legally established on the property, to be transferred via the Transfer of Building Rights (TBR's), BPAS process, or any other legally established process prior to building permit issuance. THE APPROVAL OF THE REQUESTED CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT AMENDMENTS DO NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF ANY MARKET RATE RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT.
18. To achieve fourteen units a TDR must occur. Without TDR approval only twelve units can be built on site.
19. Developer shall install stop signs and stop bars on 41st Street intersection with Louisa Ave, creating a 3-way stop. This is required as a traffic calming device to reduce the speed generated from the additional units in front of the existing daycare facility on 41st Street.
20. Development shall provide enhanced water quality equal to the runoff from 4" of rainfall in lieu of retention of the 25yr-72hr storm event, and discharge excess runoff to open water.
21. Will be required to upgrade existing vacuum main approximately 82 LF of 4" main to 6" and tie in any effected properties.

VIOLATION OF CONDITIONS:

The applicant understands and acknowledges that it must comply with all 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 _____, 2022.

Diane Clavier, City Clerk

NOTICE

Under the authority of Section 102.79(c) of the City of Marathon Land Development Regulations, this development order shall become null and void with no further notice required by the City, unless a business license has been issued for the use or a complete building permit application for site preparation and building construction with revised plans as required herein is submitted to the City of Marathon Building Official within one (1) year from the date of conditional use approval, or the date when the Department of Community Affairs waives its appeal and all required certificates of occupancy are procured with three (3) years of the date of this development order is approved by the City Council. In addition, please be advised that pursuant to Chapter 9J-1, Florida Administrative Code, this instrument shall not take effect for forty-five (45) days following the rendition to the Florida Department of Community Affairs. During those 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 _____ this ____ day of _____, 2022.

Diane Clavier, City Clerk