



CITY COUNCIL AGENDA STATEMENT

Meeting Date: October 11, 2022
To: Honorable Mayor and Council Members
From: George Garrett, City Manager
Through: Brian Shea, Planning Director

Agenda Item: **Resolution 2022-113**, Consideration Of A Request By Marathon Development Partners 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 Nine (9) Duplexes On Properties Located At 57578 And 57468 Overseas Highway, Which Are Legally Described As Block 58, Lots 10, 11, 12, 13, 14, And 15, Crains Subdivision, Grassy Key, Monroe County, Florida, Having Real Estate Numbers 00374650-000000, 00374660-000000, 00374670-000000, 00374680-000000, 00374690-000000, And 00374700-000000. Nearest Mile Marker 57.5.

APPLICANT/ OWNER: Marathon Development Partners LLC/Mark Gerenger

AGENT: David deHaas Grosseck

LOCATION: The project site is located at 57478 Overseas Highway at nearest mile marker 57.5. See Figure 1.

REQUEST: A Conditional Use Permit approving the construction of 18 market rate dwelling units; having the real estate numbers 00374650-000000, 00374660-000000, 00374670-000000, 00374680-000000, 00374690-000000, and 00374700-000000.

LOT SIZE: Total acreage: approximately 6.26 acres of which 4.08 acres lies within the MU zoning district and 2.17 acres lies within the RL zoning district. Within the MU district, 2.46 acres is above mean high water. Within the RL zoning district, 1.64 acres is above mean high water.

Density accruing to the MU zoning district is 14.76 residential units. Density accruing to the RL zoning district is 0.82 residential units.

The property has five (5) residential entitlements and 1,780 commercial square footage from previous development on the property.

SURROUNDING ZONING AND USES:

	<u><i>Zoning</i></u>	<u><i>Use</i></u>
North	Conservation Native Area	Vacant Wetlands
West	Residential Low (RL)	Vacant, Residential Homes
East	Residential Low (RL)	Vacant, Residential Homes
South	N/A	Atlantic Ocean

EXISTING CONDITIONS:

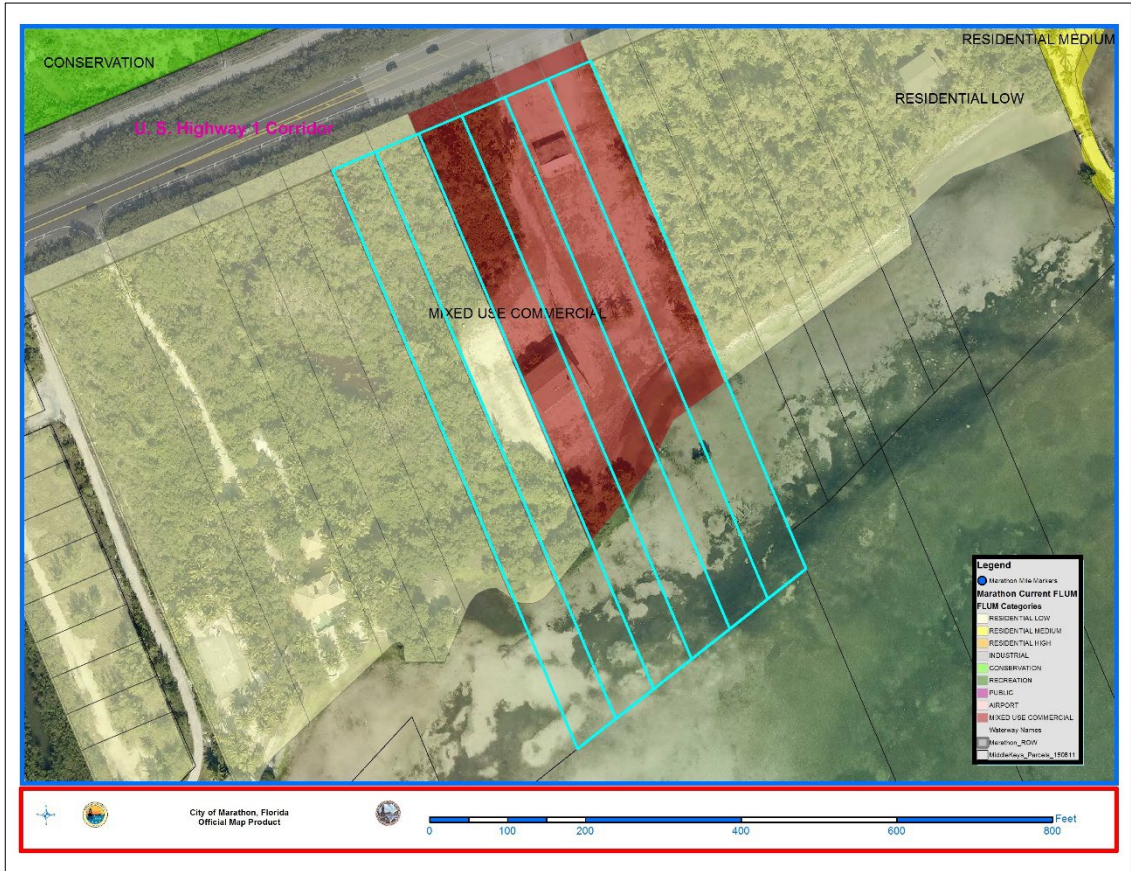
The project site consists of six parcels. Some are vacant land, one of which is heavily vegetated, the remaining contain two structures that were heavily damaged from Hurricane Irma and have since been abandoned. The existing FLUM is Mixed Use Commercial (MU-C) and Residential Low (RL). The zoning is Mixed Use (MU) and Residential Low (RL). See Figures 2 and 3.

**Figure 1
Project Site**



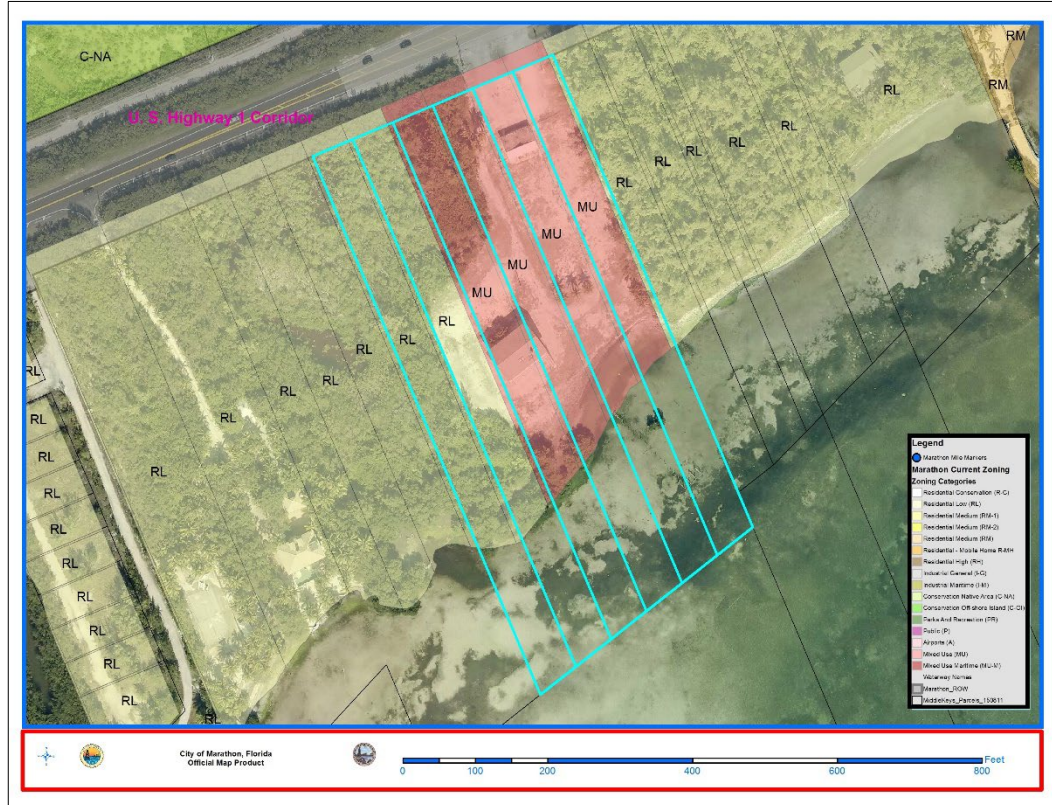
FUTURE LAND USE MAP DESIGNATION:
Mixed Use Commercial (MU-C) and Residential Low (RL). See Figure 2.

Figure 2
Future Land Use Map



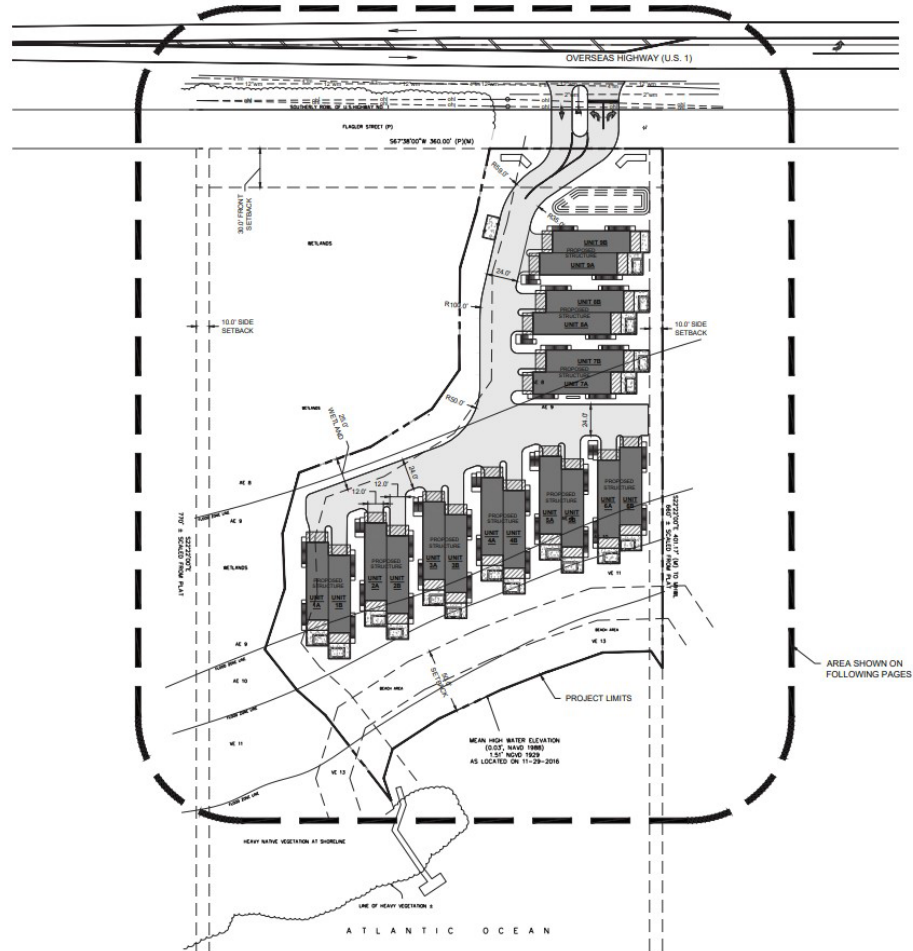
ZONING MAP DESIGNATION:
Mixed Use (MU) and Residential Low (RL). See Figure 3.

Figure 3
Zoning Map



PROPOSED REDEVELOPMENT:

The Applicant requests a change of use to construct 18 market rate units. This property came forward for approvals for 7 Duplexes as part of Resolution 2018-124.



BACKGROUND:

The proposed project seeks a redevelopment of the property to include the construction of 18 market rate units in the Mixed Use and Residential Low zoning classification.

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 eighteen (18) 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 92,911sq. ft. which according to the MU Zoning District allows for up to fourteen units. To achieve eighteen 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 eighteen (18) units a TDR must occur. Without TDR approval only fourteen 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 residential homes and vacant land to the east and west; the ocean to the south; and vacant wetland to the north.

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.

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

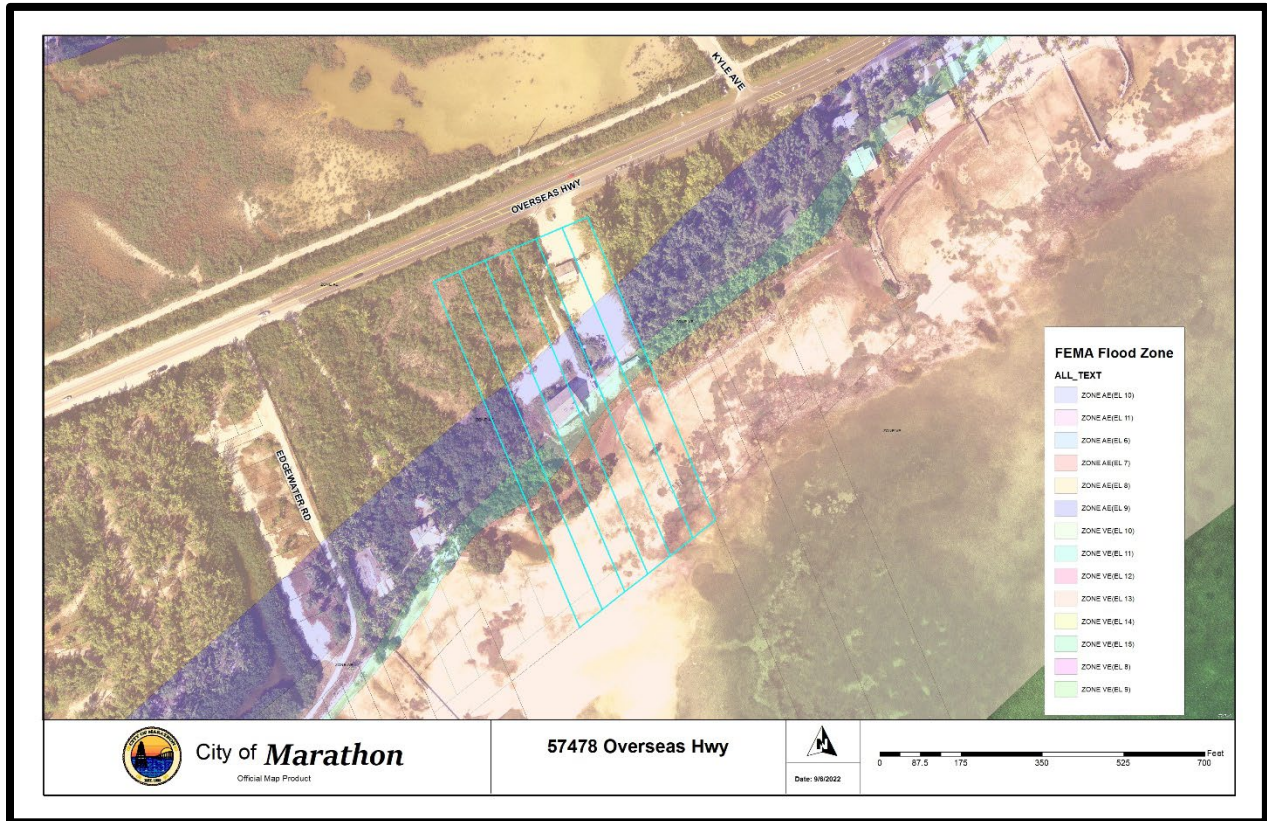
C. The proposed use shall not adversely affect the health, safety, and welfare of the public;

The proposed use is the development of an existing use which has not had any known impact to the health, safety, and welfare of the public. No new impacts are expected to arise with the redevelopment.

Plans submitted with the project are suitable for the Conditional Use Approval as they relate to Chapter 107, Article 12, 100 Year Floodplain. Final review of floodplain compliance will occur as part of building permit issuance.

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

**Figure 4
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 existing conditions maps indicate the subject area is designated as developed, although there are portions that are heavily wooded and thus undeveloped. These areas contain buttonwoods and wetlands. A site inspection showed the current conditions as scarified with a commercial structure, and a residential structure on site. A portion of the property is recognized as possible habitat for a state or federally listed animal species, the eastern indigo snake. Figure 5 shows that this portion falls under the category of buttonwoods. As the applicant is not proposing any alteration to this area, the assessment guides would result in a determination of not likely adversely affect the species.

Figure 5
FEMA – FWS Species Focus Area Maps



**Figure 6
Threatened and Endangered Species**



The property also contains two habitat types that could provide potential species. Based upon the certified biologist report, the area marked as potential turtle nesting habitat was found to not be conducive habitat for turtles. The existing other habitat is proposed not to be touched, and therefore no adverse impact to the potential habitat is expected. Staff requires the recording of a conservation easement over this area as an extra protective measure.

Further improvements to water quality are expected to arise from stormwater improvements to the site, which should provide up-to-date treatment and eliminate any existing discharges to surface waters. The applicant has submitted preliminary stormwater plans suitable for the Conditional Use Application, and final plans are required prior to building permit issuance.

Site landscaping will be selected from Table 107.68.1, Appendix A, Article 8, Section 107 of the City of Marathon Code of Ordinances. The native vegetation will improve the environmental quality of the site and reduce irrigation needs.

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.
- A final Landscape/mitigation plan must be submitted prior to permit issuance.
- A conservation easement must be recorded for the wetland portions of the site prior to permit issuance.

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;

The applicant has provided a breakdown of the proposed occupancy of the onsite buildings. The “Trip Generation Analysis” schedule provided by the traffic engineer shows that 18 Single Family Residences will create 170 net new daily trips. The submitted study finds that the proposed increase in units will not have an adverse impact on the operating characteristics of U.S. 1, nor will it inhibit the safe flow of traffic traveling through the City of Marathon.

Land Use	Size	Daily Trips
Proposed Single Family Residences	18	170

Ingress and egress to the properties is currently provided by an asphalt driveway. This driveway has an easement agreement to allow the neighboring property owner to access it. The trip generation analysis of the traffic study shows that with the analyzed 18 units, the daily trips generated would be 170.

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

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). For single family residences, two parking spaces are required for each unit. The submitted site plan shows the parking spaces to be located under the townhomes. A final site plan showing the number and dimensions of the spaces will be required prior to permit issuance.

Section 107.52 includes a requirement that one handicapped space be provided for every 25 spaces required. All residences have parking underneath. The applicant has also provided an additional parking space around the club house area. Parking space sizes are 9' x 18' for 90-degree parking.

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

- The final site plan must show the required parking spaces with dimensions located under the homes prior to permit issuance.

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

The proposed project consists of redevelopment of an existing residential use. The existing residential and commercial use does not have any adverse effect through noise, glare, or odors; and the proposed use reduces these effects, therefore the proposed density increase should have a de minimis impact.

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

- Although not suitable for turtle nesting, all lighting requirements for turtle nesting beaches will be required.

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 does not indicate that the dumpsters are screened and located for easy access and waste removal.

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

- The final site plan must show that the dumpsters are screened and located for easy access and waste removal.

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. The project will utilize existing space and will thus have a de minimus impact.

- Wastewater: The applicant will provide wastewater and sewage collection and disposal via the existing force main in the area, additional taps can be added if needed. This project will constitute a minor expansion, resulting in a de minimis impact.
- Water: The Florida Keys Aqueduct Authority already provide potable water for the facility.
- Solid Waste: Marathon Garbage Service can provide service of solid waste disposal.
- Surface Water: The applicant has provided stormwater design information suitable for the Conditional Use application review which demonstrates compliance with City standards.

However, a final stormwater plan will be required for building permit issuance.

- Recreation and Open Space: This redevelopment will have a de minimis impact on recreation and open space.
- Roadways: The applicant is redeveloping the site with a higher intensity than was contained within the prior development; therefore, a traffic study was completed to analyze the impact on transportation 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 new use at the project site.

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

- Must connect with the existing low-pressure force main.
- The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.
- A site-specific exfiltration test will be required for review of the construction plans for the project.
- The HWT in this area is tidal influenced and is established at elevation 2.0 NAVD. Exfiltration trench calculations shall be adjusted accordingly.
- Site shall be graded so that all runoff is diverted to the proposed stormwater system.
- Erosion control measures shall be implemented and maintained during the entire construction period.
- An FDOT access management permit is required for this project.

6. Screening and buffering with reference to type, dimensions, and character;

Table 107.66.1 establishes project boundary buffer standards applicable to the project. The subject parcel is zoned MU and is bordered to the east by properties zoned RL. There is a high project boundary buffer requirement for portions of the project area adjacent to parcels zoned RL. The City Biologist must approve the final landscape plans. The buffer may be reduced in half through TRC review with the addition of denser vegetation.

Buffer Type	Minimum Width	Canopy Tree	Understory Tree	Non-Deciduous	Shrub	Screening
H-High	20 feet	10	5	5	30	Yes

Section 107.71 C. requires that all multifamily residential developments provide one of two types of buffers along the entire street frontage. The project is located along US1, so a Streetscape type 1 is required.

Table 103.15.2 outlines setback requirements in the MU district as follow: front yard 0-30'; interior side yards 10'; and rear setbacks have a 20' setback from the property line.

Table 106.28.1 outlines that the setback of principal structures on a canal are 50' as measured from MHWL or mangrove fringe whichever is further landward.

This plan shows a 30' setback on the front yards, 10' setback side yard setback nearest the RL parcel and 50' rear yard setback.

Parking area landscaping is required by Section 107.66 of the Code. Proposed parking area landscaping meets the standards set forth in the code.

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

- A Final Landscape Plan must be submitted showing the proper treatments and buffers, including the appropriate treatment types and trees.
- A Final Site Plan must be submitted showing the buildings meeting the required setbacks, parking locations, and access drives.
- A conservation easement must be recorded for the wetland portions of the site prior to permit 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.

Article 107.54 establishes criteria for lighting, including light pole light limitations and other technical criteria. Final lighting plans will be submitted along with final landscaping plans and will include verification from the landscape architect that all provisions of the article are met.

Therefore, with conditions, 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. For the scarified portion of the site, a twenty percent open space requirement applies. The applicant exceeds the open space and proposes recording of a conservation easement over the wetland areas, resulting in an overall open space of 226,096 square feet of pervious area (including landscape area).

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

9. General compatibility with surrounding properties; and

The project is a redevelopment of property that has needed improvement and maintenance. Adjacent uses include other residential dwelling units. A redevelopment of the property into residential units is expected to be fully compatible with these uses. More so than previously existing uses of RV and boat storage, or historically the chicken farm. 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, the request is **in compliance** with the requirements of these sections.

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

The property currently has five (5) building rights. The proposed development is set in phases with phase one being three (3) duplexes or six (6) units. To achieve this an additional building right would be required.

Section 104.48 Residential Dwelling Units contains special requirements.

The following criteria are applicable to this redevelopment:

- Two (2) side yards are required for stacked duplexes.
- Townhouses are limited to ten (10) dwelling units per row, except for affordable housing.
- The private yard area for rooftop balcony dwelling is provided by the roof or balconies of the structure.
- 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.
- 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.
- 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.

The proposed development meets all applicable criteria set forth in this section.

Therefore, with the conditions noted above and below, the request is **in compliance** with the requirements of this section.

- Applicant must apply for and obtain allocations more than what has been determined to be on site.
- Applicant must do a unity of title for all six parcels.
-

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.

All condition of the Conditional Use approval will have to be met before any building permit will be approved.

RECOMMENDATION:

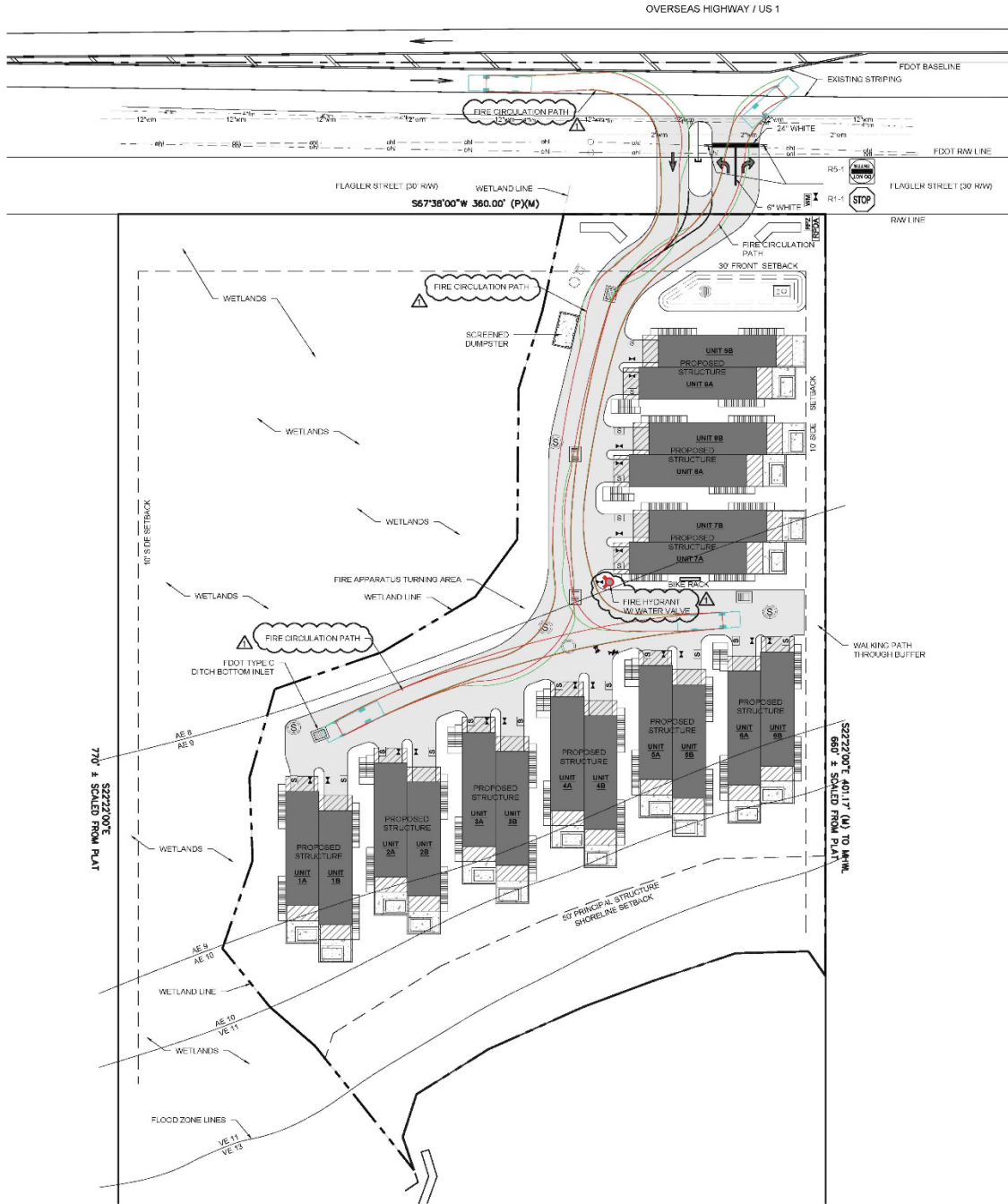
Planning Commission recommends approval of the proposed Conditional Use Permit allowing a mixed development project known as Marathon Development Partners, LLC to City Council (3-2). Planning Staff recommends conditional approval to City Council. The proposed conditions of approval are listed below.

Conditions of Approval

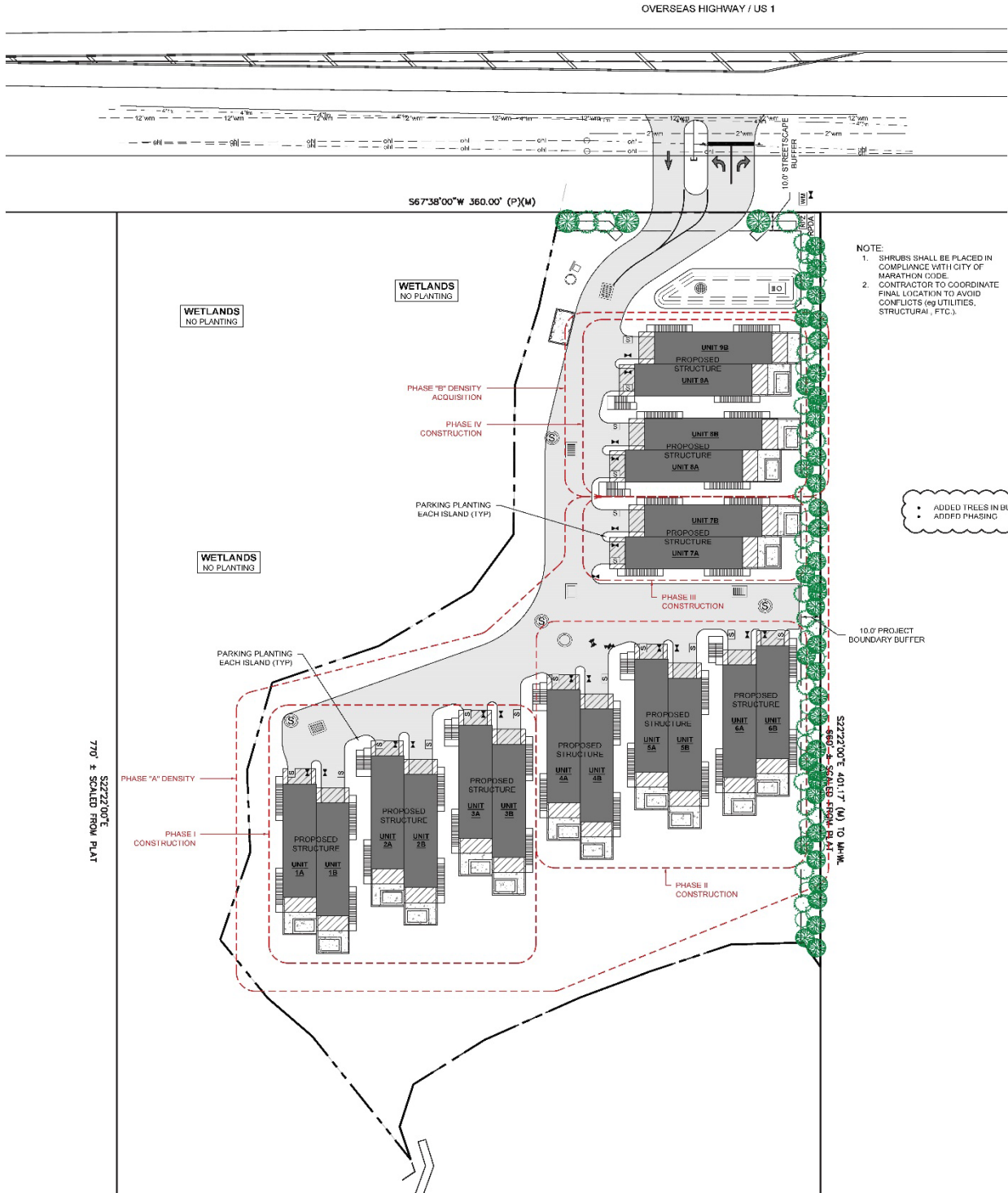
1. All conditions of the Fire Marshal must be met prior to permit issuance.
2. A final lighting plan must be submitted prior to permit issuance.
3. Although not suitable for turtle nesting, all lighting requirements for turtle nesting beaches will be required.
4. The final site plan must show that the dumpsters are screened and located for easy access and waste removal.
5. A unity of title is required for the parcels.
6. A Final Landscape Plan must be submitted showing the proper treatments and buffers, including the appropriate treatment types and trees.
7. A Final Site Plan must be submitted showing the buildings meeting the required setbacks, parking locations, and access drives.
8. A conservation easement must be recorded for the wetland portions of the site prior to permit issuance.
9. 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.
10. All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
11. Two (2) side yards are required for stacked duplexes.

12. Townhouses are limited to ten (10) dwelling units per row, except for affordable housing.
13. The private yard area for rooftop balcony dwelling is provided by the roof or balconies of the structure.
14. 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.
15. 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.
16. 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.
17. The Conditional Use Development Order will constitute the Certificate of Concurrence for the project. The determination will be valid for one year from the effective date;
18. The Applicant must obtain and transfer the housing units more than 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.
19. To achieve eighteen units a TDR must occur. Without TDR approval only fourteen units can be built on site.
20. Must connect with the existing low-pressure force main.
21. A site-specific exfiltration test will be required for review of the construction plans for the project.
22. The HWT in this area is tidal influenced and is established at elevation 2.0 NAVD. Exfiltration trench calculations shall be adjusted accordingly.
23. Site shall be graded so that all runoff is diverted to the proposed stormwater system.
24. Erosion control measures shall be implemented and maintained during the entire construction period.
25. An FDOT access management permit is required for this project.

Site Plan



Landscape Plan



**CITY OF MARATHON, FLORIDA
RESOLUTION 2022- 113**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA OF A REQUEST BY MARATHON DEVELOPMENT PARTNERS 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 NINE (9) DUPLEXES ON PROPERTIES LOCATED AT 57578 AND 57468 OVERSEAS HIGHWAY, WHICH ARE LEGALLY DESCRIBED AS BLOCK 58, LOTS 10, 11, 12, 13, 14, AND 15, CRAINS SUBDIVISION, GRASSY KEY, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00374650-000000, 00374660-000000, 00374670-000000, 00374680-000000, 00374690-000000, AND 00374700-000000. NEAREST MILE MARKER 57.5.

WHEREAS, Marathon Development Partners LLC (The “Applicant”) filed an Application on July 29, 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 requested a conditional use approval for the construction of 18 market rate dwelling 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 19th day September 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 11th day October 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; 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 22-07, a copy of which is attached hereto as Exhibit "A", granting a Conditional Use Permit to Marathon Development Partners 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 11th DAY OF OCTOBER 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 22-07**

A DEVELOPMENT ORDER APPROVING A REQUEST BY MARATHON DEVELOPMENT PARTNERS 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 NINE (9) DUPLEXES ON PROPERTIES LOCATED AT 57578 AND 57468 OVERSEAS HIGHWAY, WHICH ARE LEGALLY DESCRIBED AS BLOCK 58, LOTS 10, 11, 12, 13, 14, AND 15, CRAINS SUBDIVISION, GRASSY KEY, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00374650-000000, 00374660-000000, 00374670-000000, 00374680-000000, 00374690-000000, AND 00374700-000000. NEAREST MILE MARKER 57.5.

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WHEREAS, the applicant has requested a conditional use approval for the construction of 18 market rate dwelling 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

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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; and

FINDINGS OF FACT:

1. The Applicant has proposed a conditional use approval for construction of 18 market rate dwelling units.
2. In accordance with Section 102.77 of the Code, the Commission and Council considered and determined the Applicant met the following criteria:
 - a. The proposed use is consistent with the Comprehensive Plan and LDRs;
 - b. The proposed use is compatible with the existing land use pattern and future uses designated by the Comprehensive Plan;
 - c. The proposed use shall not adversely affect the health, safety, and welfare of the public; and
 - d. The proposed conditional use minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment; and
 - e. Satisfactory provisions and arrangements have been made concerning the following matters, where applicable:
 1. Ingress and egress to the property and proposed structures thereon with particular reference to automotive, bicycle, and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;
 2. Off-street parking and loading areas where required, with particular attention to item 1 above;
 3. The noise, glare, or odor effects of the conditional use on surrounding properties;
 4. Refuse and service areas, with particular reference to location, screening, and Items 1 and 2 above;
 5. Utilities, with reference to location and availability;
 6. Screening and buffering with reference to type, dimensions, and character;
 7. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety and compatibility with surrounding properties;
 8. Required yards and other open space;
 9. General compatibility with surrounding properties; and

CONDITIONS IMPOSED:

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

Conditions of Approval

1. All conditions of the Fire Marshal must be met prior to permit issuance.
2. A final lighting plan must be submitted prior to permit issuance.
3. Although not suitable for turtle nesting, all lighting requirements for turtle nesting beaches will be required.
4. The final site plan must show that the dumpsters are screened and located for easy access and waste removal.

5. A unity of title is required for the parcels.
6. A Final Landscape Plan must be submitted showing the proper treatments and buffers, including the appropriate treatment types and trees.
7. A Final Site Plan must be submitted showing the buildings meeting the required setbacks, parking locations, and access drives.
8. A conservation easement must be recorded for the wetland portions of the site prior to permit issuance.
9. 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.
10. All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
11. Two (2) side yards are required for stacked duplexes.
12. Townhouses are limited to ten (10) dwelling units per row, except for affordable housing.
13. The private yard area for rooftop balcony dwelling is provided by the roof or balconies of the structure.
14. 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.
15. 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.
16. 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.
17. 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;
18. The Applicant must obtain and transfer the housing units more than 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.
19. To achieve eighteen units a TDR must occur. Without TDR approval only fourteen units can be built on site.
20. Must connect with the existing low-pressure force main.
21. A site-specific exfiltration test will be required for review of the construction plans for the project.
22. The HWT in this area is tidal influenced and is established at elevation 2.0 NAVD. Exfiltration trench calculations shall be adjusted accordingly.
23. Site shall be graded so that all runoff is diverted to the proposed stormwater system.
24. Erosion control measures shall be implemented and maintained during the entire construction period.
25. An FDOT access management permit is required for this project.

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 Economic Opportunity waives its appeal and all required certificates of occupancy are procured with three (3) years of the date of this development order is approved by the City Council.

In addition, please be advised that pursuant to Chapter 9J-1, Florida Administrative Code, this instrument shall not take effect for forty-five (45) days following the rendition to the Florida Department of Economic Opportunity. During 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