



CITY COUNCIL AGENDA STATEMENT

Meeting Date: November 15, 2022
From: Brian Shea, Planning Director
Through: George Garrett City Manager

Agenda Item: **Resolution 2022-120**, Consideration Of A Request By Coastal Properties – Vaca Cut Annex 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 A Two (2) Story, Six (6) Unit Multi-Family Affordable Housing Unit Located At 11990 Overseas Highway, Which Is Legally Described As Block E Lots 4, 5 And 6 Hawaiian Village PB4-70 Fat Deer Key, Monroe County, Florida, Having Real Estate Number 00357680-000000. Nearest Mile Marker 53.

RECOMMENDATION:

Staff recommends approval of the project with the recognized conditions and limitations.

APPLICANT/ OWNER: Coastal Properties- Vaca Cut Annex LLC

AGENT: D’Assign Source LLC Amber Schmidt

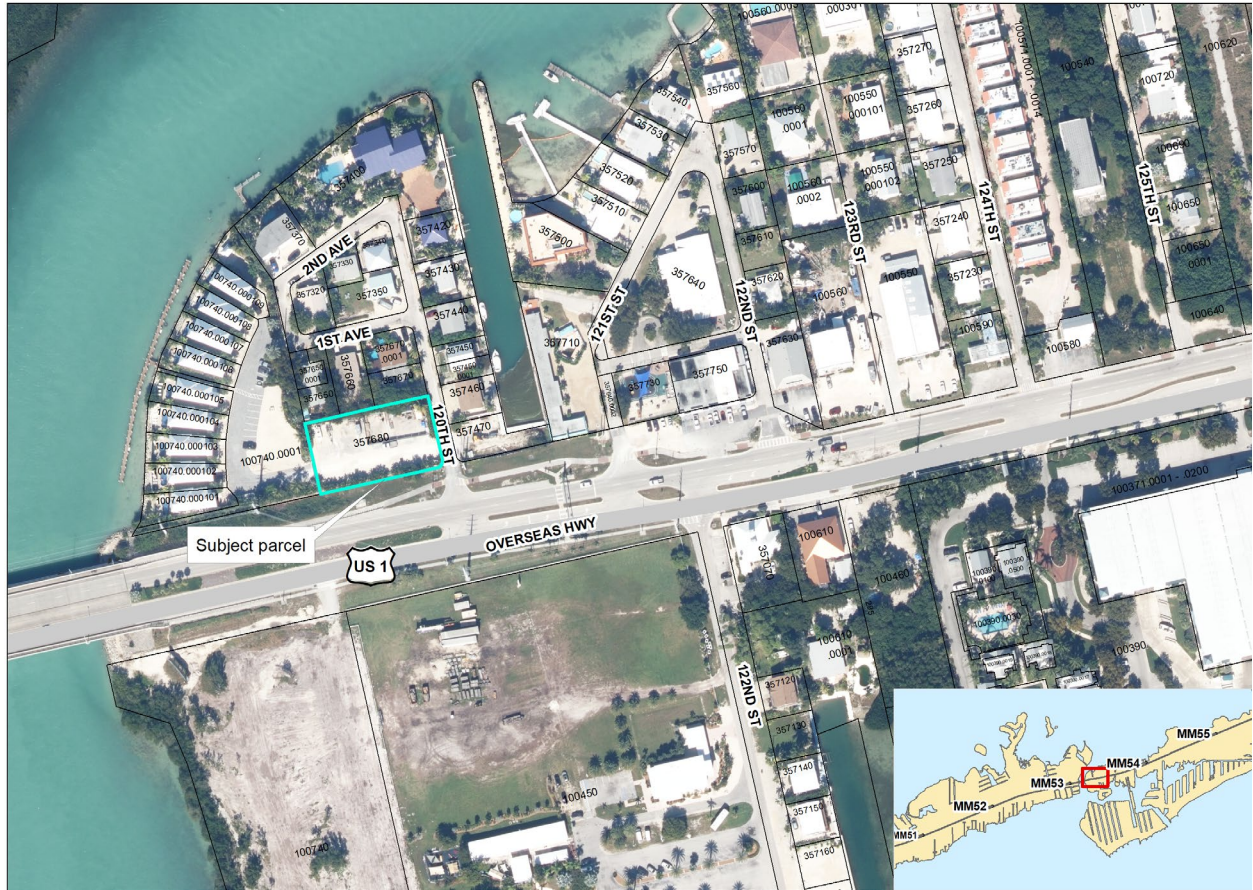
LOCATION: The project site is located at 11990 Overseas Highway at approximately Mile Marker 53. See Figure1.

REQUEST: Approval of a Conditional Use Permit for development of the subject property providing for construction of one two story multifamily affordable housing unit consisting of six units.

LOT SIZE: Total acreage: 0.402 acres or 17,500 square feet

SURROUNDING ZONING AND USES:

| | <u>Zoning</u> | <u>Use</u> |
|--------------|--------------------------------|-------------------------------------------------------|
| North | Residential Medium | Residential Neighborhood |
| East | Residential Medium & Mixed Use | Single Family Homes, Multi-family Dwelling/Commercial |
| South | Mixed Use | Church and vacant land |
| West | Mixed Use | Vacation rental units |



The existing FLUM is Mixed Use Commercial (MU-C), and the Zoning is Mixed Use (MU).

Figure 3: Future Land Use Map

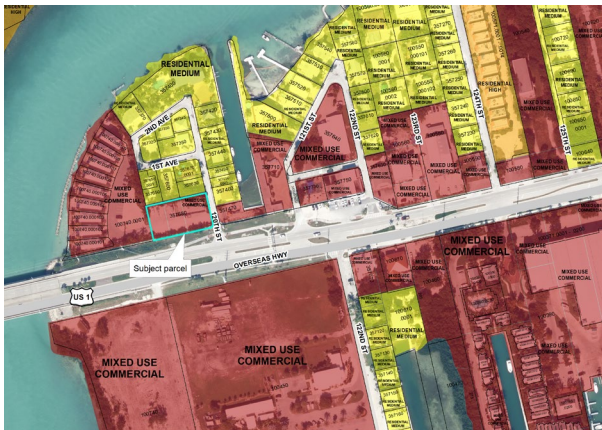
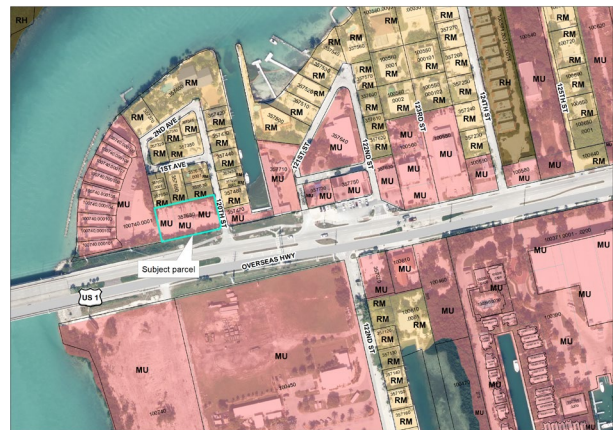


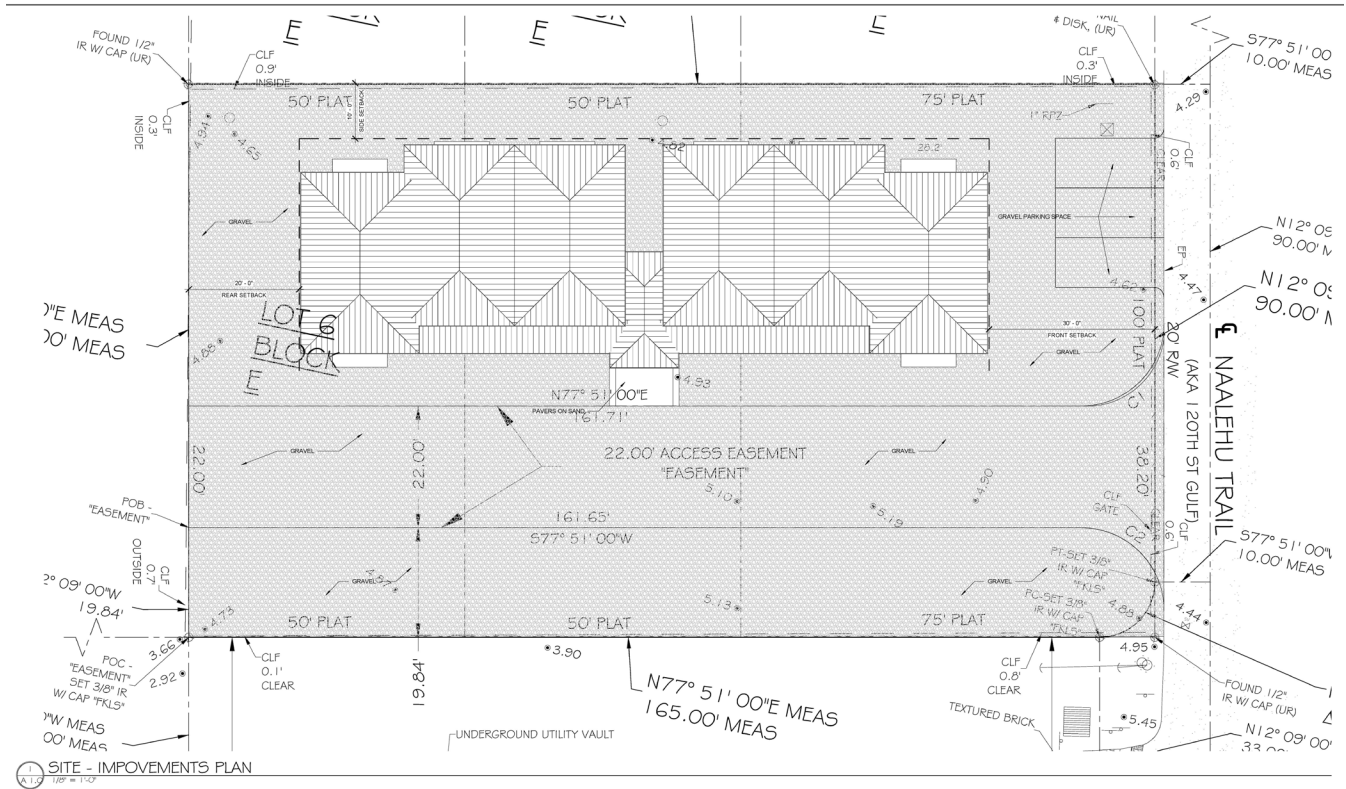
Figure 4: Zoning Map



PROPOSED DEVELOPMENT:

The applicant requests a conditional use to develop a two-story multifamily building consisting of 6 affordable units.

Figure 5: Proposed Development Site Plan



BACKGROUND:

The proposed project is a development of a single multifamily building consisting of six affordable housing units. Multifamily dwellings are permitted only by Conditional Use Approval in Mixed Use zoning areas; therefore, a Conditional Use Approval is required for project approval. Historically, this site has been utilized for the storage of vehicles, vessels, construction equipment and construction materials. This report addresses the Conditional Use application. **All conditions of the Conditional Use approval will have to be met prior to building permit issuance.**

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 redevelopment 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 “provides for land uses that have a strong pedestrian-oriented character, with a mixture and concentration of specialty shopping, transient lodging, retail, personal service, restaurant, cultural, fishing industry, affordable housing and entertainment uses in the Old Town area.”

The proposed project is consistent with the Mixed-Use Zoning District. Section 103.15 establishes whether specific uses are allowed as of right, limited, accessory or conditional uses, through Table 103.15.2. That table shows that Multifamily dwellings (5+) are allowed as Conditional Uses in the MU district. Conditional Use 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. In its review of this project, staff determined the overall development proposal to be consistent with allowed density for affordable units.

This proposal is for six affordable housing units in a two-story multifamily dwelling on 17,500 sq ft of uplands. Minimum lot area per unit for affordable housing is 2,904 sq ft. This project requires a minimum lot size of 17,424 sq ft. The parcel is 17,500 sq ft and will not exceed any density constraints imposed on the type of residential construction proposed.

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

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 existing land use pattern in the project vicinity consists of single-family residential homes to the North on 1st Ave gulf. To the East across 120th St gulf there is a multifamily dwelling/ commercial and other single-family homes. To the West is a multi-unit vacation rental property.

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 affordable residential units in a multifamily dwelling which as proposed should have no adverse impact to the health, safety, and welfare of the public. The project will incorporate the required standards of landscape and open space by the City of Marathon.

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

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

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:

This property contains no recognized habitat to any state or federally listed animal species and is not within Florida Forever boundaries or critical habitat areas.

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.

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

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 traffic analysis for the proposed development. There is a projected increase in vehicles trips however this is considered minimal.

| Vaca Cut Annex Trip Generation Analysis US 1 - Marathon, Florida | | | | | | | | |
|------------------------------------------------------------------------|------|-------------|--------------------|-----|-------|--------------------|-----|-------|
| Land Use | Size | Daily Trips | AM Peak Hour Trips | | | PM Peak Hour Trips | | |
| | | | In | Out | Total | In | Out | Total |
| <i>Proposed</i> Multifamily Housing (Low-Rise) | 6 DU | 36 | 0 | 2 | 2 | 2 | 1 | 3 |

*Compiled by: KBP Consulting, Inc. (August 2022).
Source: ITE Trip Generation Manual (11th Edition).*

Ingress and egress to the property is being provided through 120th Street (Naalehu Trail).

As indicated in the Table above, the proposed residential development is anticipated to generate 36 net new daily vehicle trips, two (2) net new AM peak hour vehicle trips (both outbound), and three (3) net new PM peak hour vehicle trips (2 inbound and 1 outbound).

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.

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;

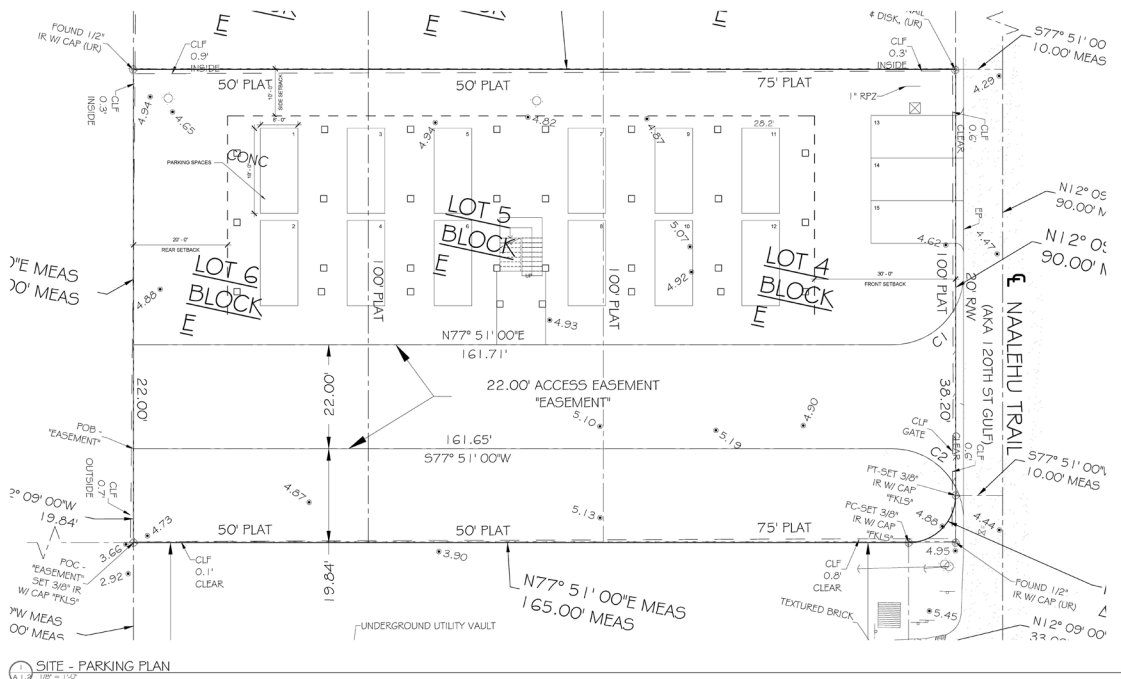
Parking requirements are outlined in Section 107.46 (Parking Schedule). The following table shows the parking requirement for two-bedroom Multifamily dwellings as requested in this application.

| Use | Code Citation | Requirement | Spaces Required |
|-------------------------------------------------------|---------------|-----------------------------------------------|-----------------|
| Multiple-family Dwelling Two or more bedroom units | 107.47 | 1.5 per dwelling unit, plus 1 per 10 bedrooms | 10 |
| Total Required | | | 10 |
| Total Provided | | | 15 |

The design of all parking areas shall conform to current standards under the Americans with Disabilities Act (ADA).

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.

Figure 6: Parking Plan



1 SITE - PARKING PLAN
107-1-23

REQUIRED PARKING:
 1 1/2 PER UNIT X 4 UNITS = 9 SPACES

PROPOSED PARKING:
 15 STANDARD SPACES
 = 15 TOTAL

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

- 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 project consists of construction of one two-story multifamily building. The proposed use does not have any adverse effect through noise, glare, or odors; therefore, the proposed density should have a de minimis impact.

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

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

Refuse is to be contained in individual containers with standard refuse and recycling pick up.

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

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 applicant will provide wastewater and sewage collection and disposal through cooperation with the Utilities Department.
- Water: The Florida Keys Aqueduct Authority will provide potable water for the facility.
- Solid Waste: Marathon Garbage Service will provide 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 development will have a de minimis impact on recreation and open space.
- Roadways: A traffic study was completed to analyze the impact on transportation facilities.
- Educational Facilities: This development will have a de minimis impact on educational facilities since existing uses are being replaced in kind.

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

- City approval is required for the stormwater management system prior to Building Permit Approval.
- Applicant must obtain all outside agency approvals.
- City approval of the connection to the City Wastewater Utility will be required. *However, the Utilities Department has stated that the existing vacuum main that services that property has no more capacity and is maxed out. They are therefore unwilling to add any more load on this line until the Fairfield Hotel lift station is completed and on-line. Based on existing contracts this should occur within one year. Until this work is complete no permit can be issued.*

- The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.

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 North by properties zoned Residential Medium (RM). There is a high project boundary buffer requirement for portions of the project area adjacent to parcels zoned RM. The final landscape plans must be approved by the City Biologist.

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

The applicant is proposing a reduced to 10 ft landscape buffer that contains additional plantings. This has been approved by TRC review with conditions:

Section 107.71 A. requires that parcels with a MU zoning designation provide a Type 1 Streetscape Treatment for all parcels along US 1. The proposed landscape plan meets the minimum requirements.

Section 107.71 C. requires that all multifamily residential developments provide Type 1 Streetscape buffer along the entire street frontage. The project is adjacent to 120th St Gulf and US 1. The final landscape plan must show compliance with the buffer standards. Current site plan graphics do not meet requirements due to parking spaces being proposed in the 10ft landscape buffer of the street frontage on 120th St.

Parking area landscaping is required by Section 107.66 of the Code.

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

| Setback | Required | Required Landscape | Proposed | Compliant |
|------------------|----------|--------------------|----------|-----------|
| Front | 30 | 10 | 30 | No |
| Side | 10 | 20 | 10 | No |
| Rear | 20 | NA | 20 | Yes |
| Side US frontage | 10 | 10 | 22 | Yes |

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.
- Extra volume is required for the swale to make up for lost volume from the additional plantings.

- No parking spots can be located along the entire street frontage. Parking must be relocated prior to permit issuance.
- A ten-foot-wide landscape buffer is required for the entire street frontage consisting of two (2) canopy trees and two (2) understory trees per 100 linear feet and site plan must meet this 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 as no sign are being proposed. Each unit will be equipped with an exterior wall sconce. The proposed use does not have any adverse effect through noise, glare, or odors; therefore, the proposed use should have a de minimis impact.

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

8. Required yards and other open space;

Section 106.16 established required open space for the project. The site is disturbed/scarified; therefore, a twenty percent open space requirement applies. According to calculations provided by the applicant, 10,352 square feet of proposed impervious area and or 41% of the site, is provided as open space. This meets the open space requirement.

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

9. General compatibility with surrounding properties; and

The project is a multi-family dwelling. Adjacent uses are multi-family, single-family units, and vacation rental units. The new multi-family dwelling is expected to be fully compatible with these uses. The proposed project is expected to increase compatibility with surrounding properties.

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.

Section 104.48 Residential Dwelling Units contains special requirements.

The following criteria are applicable to this proposed development:

- 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.

Additionally, the project must meet all criteria of Section 104.03 pertaining to affordable housing.

- Dwelling units shall contain less than or equal to 1,800 square feet of habitable space.
- Occupancy of affordable housing units is limited to those meeting the following income requirements:
 - A. Very-low-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 50 percent of the median adjusted gross annual income for households within the county;
 - B. Low-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 80 percent of the median adjusted gross annual income for households within the county;
 - C. Median-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 100 percent of the median adjusted gross annual income for households within the county;
 - D. Moderate-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 120 percent of the median adjusted gross annual income for households within the county;
 - E. Middle-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 160 percent of the median adjusted gross annual income within the county;
 - F. For the purposes of this section, "adjusted gross income" means all wages, income from assets, regular cash or non-cash contributions or gifts from persons outside the household (that will be used to offset the purchase price of the dwelling unit), and such other resources and benefits as may be determined to be income by the United States Department of Housing and Urban Development, adjusted for family size, less deductions allowable under Section 62 of the Internal Revenue Code. Income from assets is calculated at either the actual income from all assets or two (2%) percent of the value of all assets, whichever is greater. If total assets are less than \$5,000.00, no income is considered. Asset inclusions: Cash accounts (checking, savings, IRA, Money Market...), investments, retirement accounts, boats, RV's. Income exclusions: Personal property, automobiles;
 - G. The maximum sales price shall not exceed 300 percent of that amount which represents 160 percent of the median adjusted gross annual income for households within the county;
 - H. The monthly rent shall not exceed 30 percent of that amount which represents the income bracket of the household, i.e., very low, low, median, moderate or middle, divided by 12. In no case shall the monthly rent exceed 160 percent of the median adjusted gross annual income for households within the county, divided by 12; and
 - I. If the dwelling units utilize affordable housing BPAS allocations, the requirements of Subsection 107.06(c) shall also apply.
 - J. Annual income qualification, lease, or employment verification, as applicable, by the City, or its designee, shall be limited to rental and employee housing dwelling units. Income verification for

owner occupied dwellings shall be performed and approved by the City or its designee prior to the sales closing and occupancy of the dwelling unit.

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

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

CONCLUSION:

The Conditional Use Approval 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 consists of the development of six (6) affordable rate residential units in an area zoned Mixed Use (MU). 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:

Planning staff recommends conditional approval of the multifamily 6-unit affordable housing project provided that **all conditions are met prior to permit issuance.** The proposed conditions of approval are listed below. Planning Commission recommends approval (2-1).

Conditions of Approval

- 1) Ingress and egress shall only occur from 120th St. Gulf
- 2) As part of the permit application, all conditions of the Fire Marshal must be met prior to permit issuance, and hydrants must be operational prior to buildings going vertical.
- 3) City approval is required for the stormwater management system prior to Building Permit Approval.
- 4) Applicant must obtain all outside agency approvals prior permit issuance and prior to project initiation.
- 5) City approval of the connection to the City Wastewater Utility will be required. *However, the Utilities Department has stated that the existing vacuum main that services that property has no more capacity and is maxed out. They are therefore unwilling to add any more load on this line until the Fairfield Hotel lift station is completed and on-line. Based on existing contracts this should occur within one year. Until this work is complete no permit can be issued.*
- 6) A Final Landscape Plan must be submitted showing the proper treatments and buffers, including the appropriate treatment types and trees. Since additional buffering was required and agreed to by the applicant, this additional buffering must also be reviewed and approved by the City prior to final project approval.
- 7) A Final Site Plan must be submitted showing the buildings meeting the required setbacks, parking locations, and access drives.

- 8) Extra volume is required for the swale to make up for lost volume from the additional plantings.
- 9) Sufficient parking for two spaces per unit and additional visitor parking.
- 10) City approval is required for bike racks prior to Building Permit Approval.
- 11) All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
- 12) Applicant must obtain all outside agency approvals.
- 13) The design of all parking areas shall conform to current standards under the Americans with Disabilities Act (ADA).
- 14) No parking spots can be located along the entire street frontage. Parking must be relocated prior to permit issuance.
- 15) A ten-foot-wide landscape buffer is required for the entire street frontage consisting of two (2) canopy trees and two (2) understory trees per 100 linear feet and site plan must meet this prior to permit issuance.
- 16) The private yard area for rooftop balcony dwelling is provided by the roof or balconies of the structure.
- 17) 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.
- 18) 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.
- 19) Dwelling units shall contain less than or equal to 1,800 square feet of habitable space.
- 20) Occupancy of affordable housing units is limited to those meeting the following income requirements:

A. Very-low-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 50 percent of the median adjusted gross annual income for households within the county;

B. Low-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 80 percent of the median adjusted gross annual income for households within the county;

C. Median-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 100 percent of the median adjusted gross annual income for households within the county;

D. Moderate-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 120 percent of the median adjusted gross annual income for households within the county;

E. Middle-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 160 percent of the median adjusted gross annual income within the county;

F. For the purposes of this section, "adjusted gross income" means all wages, income from assets, regular cash or non-cash contributions or gifts from persons outside the household (that will be used to offset the purchase price of the dwelling unit), and such other resources and benefits as may be determined to be income by the United States Department of Housing and Urban Development, adjusted for family size, less deductions allowable under Section 62 of the Internal Revenue Code. Income from assets is calculated at either the actual income from all assets or two (2%) percent of the value of all assets, whichever is greater. If total assets are less than \$5,000.00, no income is considered. Asset inclusions: Cash accounts (checking, savings, IRA, Money

Market...), investments, retirement accounts, boats, RV's. Income exclusions: Personal property, automobiles;

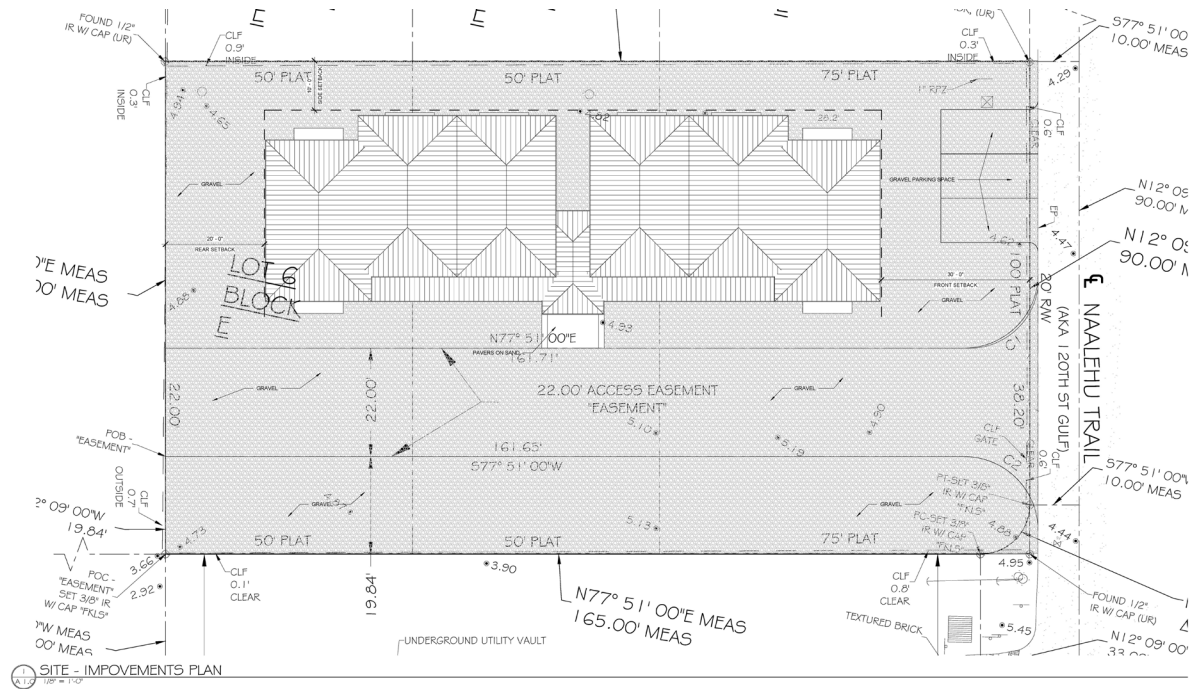
G. The maximum sales price shall not exceed 300 percent of that amount which represents 160 percent of the median adjusted gross annual income for households within the county;

H. The monthly rent shall not exceed 30 percent of that amount which represents the income bracket of the household, i.e., very low, low, median, moderate or middle, divided by 12. In no case shall the monthly rent exceed 160 percent of the median adjusted gross annual income for households within the county, divided by 12; and

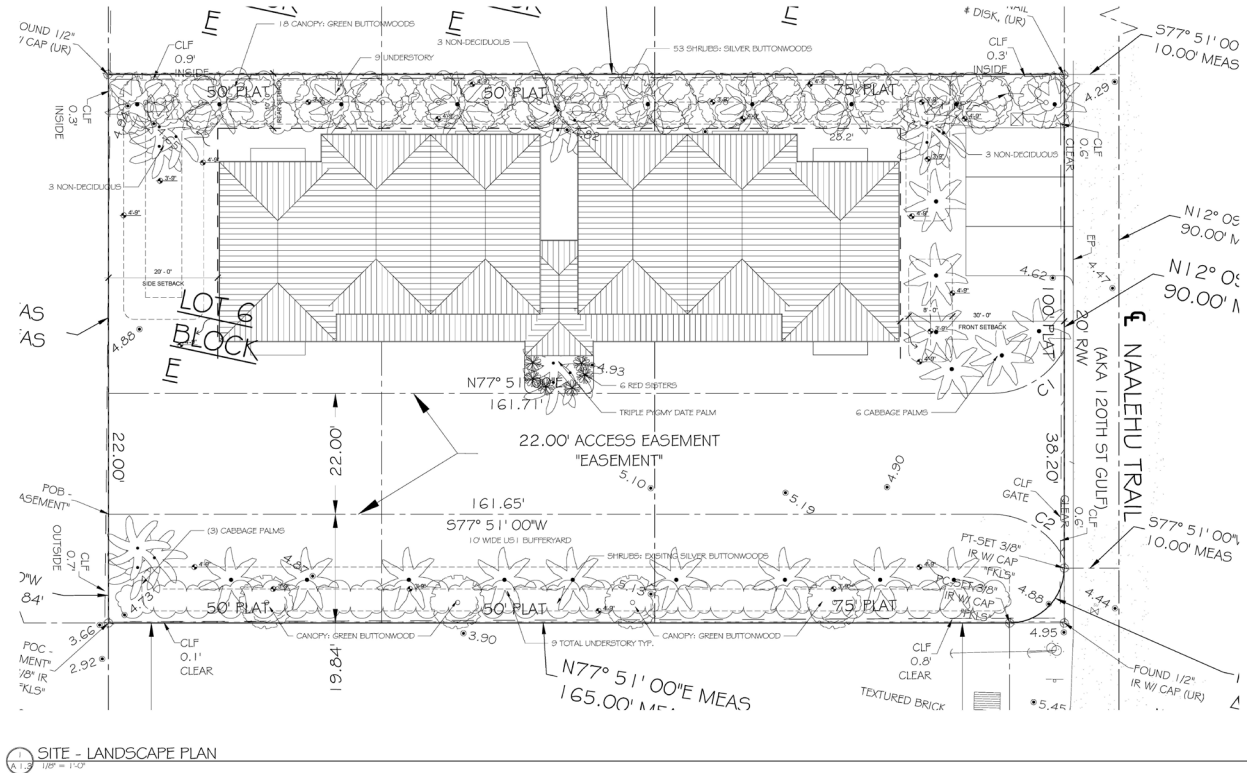
I. If the dwelling units utilize affordable housing BPAS allocations, the requirements of Subsection 107.06(c) shall also apply.

J. Annual income qualification, lease, or employment verification, as applicable, by the City, or its designee, shall be limited to rental and employee housing dwelling units. Income verification for owner occupied dwellings shall be performed and approved by the City or its designee prior to the sales closing and occupancy of the dwelling unit.

- 21) Affordable Housing Deed Restrictions must be filed prior to building permit issuance. Said deed restrictions shall be provided in a form acceptable to the City and shall be filed with the Monroe County Clerk of Court and shall run with the land for a period of ninety-nine (99) years.
- 22) The Applicant must obtain a minimum of six (6) affordable residential allocations 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 DOES NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF ANY AFFORDABLE RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT.
- 23) The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.



Attachment B: Landscape Plan



Attachment C: Elevation Plan



**CITY OF MARATHON, FLORIDA
RESOLUTION 2022-120**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING A REQUEST BY COASTAL PROPERTIES - VACA CUT ANNEX 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,” PROPOSING THE DEVELOPMENT OF A TWO (2) STORY, SIX (6) UNIT MULTI-FAMILY AFFORDABLE HOUSING UNIT LOCATED AT 11990 OVERSEAS HIGHWAY, WHICH IS LEGALLY DESCRIBED AS BLOCK E LOTS 4, 5 AND 6 HAWAIIAN VILLAGE PB4-70 FAT DEER KEY, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00357680-000000. NEAREST MILE MARKER 53.

WHEREAS; Coastal Properties- Vaca Cut Annex, LLC (The “Applicant”) filed an Application on September 20, 2022 for a Conditional Use Permit pursuant to Chapter 102, Articles 13 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS; the Applicant has proposed to the development of a Two (2) Story, Six (6) Unit Multi-Family Affordable Housing Unit Located At 11990 Overseas Highway; and

WHEREAS; the Applicant must obtain six (6) affordable residential allocations 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 DOES NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF ANY AFFORDABLE RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT.

WHEREAS; 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 17th day of October 2022, the City of Marathon Planning Commission (the “Commission”) conducted a properly advertised public hearing (the “Public Hearings”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

WHEREAS; and on the 15th day of November, 2022 the City Council (the “Council”) conducted a properly advertised public hearing (the “Public Hearings”) 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 made a determination 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 and further, that the approval is in the public interest, is consistent with its policy to encourage redevelopment in Marathon, and will further the health, safety and welfare of the residents of Marathon; and

WHEREAS; the purpose of the Conditional Use Permit is 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 and on the basis of all zoning, subdivision and other ordinances applicable to the proposed location and zoning district,

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 2022-08, a copy of which is attached hereto as Exhibit “A”, granting a Conditional Use Permit to Coastal Properties- Vaca Cut Annex, 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 approval by the State Department of Economic Opportunity.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 15TH DAY OF NOVEMBER 2022.

THE CITY OF MARATHON, FLORIDA

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:**

Steve Williams, City Attorney

**CITY OF MARATHON, FLORIDA
CONDITIONAL USE
DEVELOPMENT ORDER # 2022-08**

A DEVELOPMENT ORDER OF CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING A REQUEST BY COASTAL PROPERTIES - VACA CUT ANNEX 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,” PROPOSING THE DEVELOPMENT OF A TWO (2) STORY, SIX (6) UNIT MULTI-FAMILY AFFORDABLE HOUSING UNIT LOCATED AT 11990 OVERSEAS HIGHWAY, WHICH IS LEGALLY DESCRIBED AS BLOCK E LOTS 4, 5 AND 6 HAWAIIAN VILLAGE PB4-70 FAT DEER KEY, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00357680-000000. NEAREST MILE MARKER 53.

WHEREAS; Coastal Propertites - Vaca Cut Annex LLC (The “Applicant”) filed an Application on September 20, 2022 for a Conditional Use Permit pursuant to Chapter 102, Articles 13 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS; the Applicant has proposed to the development of a Two (2) Story, Six (6) Unit Multi-Family Affordable Housing Unit Located At 11990 Overseas Highway; and

WHEREAS; the Applicant must obtain six (6) affordable residential allocations 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 DOES NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF ANY AFFORDABLE RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT.

WHEREAS; 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 17th day of October 2022, the City of Marathon Planning Commission (the “Commission”) conducted a properly advertised public hearing (the “Public Hearings”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

WHEREAS; and on the 15th day of November, 2022 the City Council (the “Council”) conducted a properly advertised public hearing (the “Public Hearings”) 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 made a determination 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 and further, that the approval is in the public interest, is consistent with its policy to encourage redevelopment in Marathon, and will further the health, safety and welfare of the residents of Marathon; and

WHEREAS; the purpose of the Conditional Use Permit is 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 and on the basis of all zoning, subdivision and other ordinances applicable to the proposed location and zoning district,

FINDINGS OF FACT:

1. The applicant will redevelop the project site as set out in the project site plan allowing the Applicant to construct six (6) affordable residential units (See Approved Site Plan – Exhibit A” and all Plans otherwise provided and approved, or approved as revised, as part of the Applicant’s submittal):
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) Ingress and egress shall only occur from 120th St. Gulf
- 2) As part of the permit application, all conditions of the Fire Marshal must be met prior to permit issuance, and hydrants must be operational prior to buildings going vertical.
- 3) City approval is required for the stormwater management system prior to Building Permit Approval.
- 4) Applicant must obtain all outside agency approvals prior permit issuance and prior to project initiation.
- 5) City approval of the connection to the City Wastewater Utility will be required. However, the Utilities Department has stated that the existing vacuum main that services that property has no more capacity and is maxed out. They are therefore unwilling to add any more load on this line until the Fairfield Hotel lift station is completed and on-line. Based on existing contracts this should occur within one year. Until this work is complete no permit can be issued.
- 6) A Final Landscape Plan must be submitted showing the proper treatments and buffers, including the appropriate treatment types and trees. Since additional buffering was required and agreed to by the applicant, this additional buffering must also be reviewed and approved by the City prior to final project approval.
- 7) A Final Site Plan must be submitted showing the buildings meeting the required setbacks, parking locations, and access drives.
- 8) Extra volume is required for the swale to make up for lost volume from the additional plantings.
- 9) Sufficient parking for two spaces per unit and additional visitor parking.
- 10) City approval is required for bike racks prior to Building Permit Approval.
- 11) All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
- 12) Applicant must obtain all outside agency approvals.
- 13) The design of all parking areas shall conform to current standards under the Americans with Disabilities Act (ADA).
- 14) No parking spots can be located along the entire street frontage. Parking must be relocated prior to permit issuance.
- 15) A ten-foot-wide landscape buffer is required for the entire street frontage consisting of two (2) canopy trees and two (2) understory trees per 100 linear feet and site plan must meet this prior to permit issuance.
- 16) The private yard area for rooftop balcony dwelling is provided by the roof or balconies of the structure.
- 17) 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.

18) 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.

19) Dwelling units shall contain less than or equal to 1,800 square feet of habitable space.

20) Occupancy of affordable housing units is limited to those meeting the following income requirements:

A. Very-low-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 50 percent of the median adjusted gross annual income for households within the county;

B. Low-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 80 percent of the median adjusted gross annual income for households within the county;

C. Median-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 100 percent of the median adjusted gross annual income for households within the county;

D. Moderate-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 120 percent of the median adjusted gross annual income for households within the county;

E. Middle-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 160 percent of the median adjusted gross annual income within the county;

F. For the purposes of this section, "adjusted gross income" means all wages, income from assets, regular cash or non-cash contributions or gifts from persons outside the household (that will be used to offset the purchase price of the dwelling unit), and such other resources and benefits as may be determined to be income by the United States Department of Housing and Urban Development, adjusted for family size, less deductions allowable under Section 62 of the Internal Revenue Code. Income from assets is calculated at either the actual income from all assets or two (2%) percent of the value of all assets, whichever is greater. If total assets are less than \$5,000.00, no income is considered. Asset inclusions: Cash accounts (checking, savings, IRA, Money Market...), investments, retirement accounts, boats, RV's. Income exclusions: Personal property, automobiles;

G. The maximum sales price shall not exceed 300 percent of that amount which represents 160 percent of the median adjusted gross annual income for households within the county;

H. The monthly rent shall not exceed 30 percent of that amount which represents the income bracket of the household, i.e., very low, low, median, moderate or middle, divided by 12. In no case shall the monthly rent exceed 160 percent of the median adjusted gross annual income for households within the county, divided by 12; and

I. If the dwelling units utilize affordable housing BPAS allocations, the requirements of Subsection 107.06(c) shall also apply.

J. Annual income qualification, lease, or employment verification, as applicable, by the City, or its designee, shall be limited to rental and employee housing dwelling units. Income verification for owner occupied dwellings shall be performed and approved by the City or its designee prior to the sales closing and occupancy of the dwelling unit.

21) Affordable Housing Deed Restrictions must be filed prior to building permit issuance. Said deed restrictions shall be provided in a form acceptable to the City and shall be filed with the Monroe County Clerk of Court and shall run with the land for a period of ninety-nine (99) years.

22) The Applicant must obtain a minimum of six (6) affordable residential allocations 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 DOES NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE

ALLOCATIONS BY THE CITY OF ANY AFFORDABLE RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT.

23) The Conditional Use Development Order will constitute the Certificate of Concurrence for the project. The determination will be valid for one year.

VIOLATION OF CONDITIONS:

The applicant understands and acknowledges that it must comply with all of 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 is hereby GRANTED subject to the conditions specified herein.

EFFECTIVE DATE:

This development order shall not take effect for five (5) 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, this instrument shall not take effect for forty-five (45) days following the rendition to the Florida Department of Economic Opportunity. During that 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 COASTAL PROPERTIES - VACA CUT ANNEX LLC, 11500 Overseas Hwy, Marathon FL 33050, this ___ day of _____, 2022.

Diane Clavier City Clerk

Exhibit "B": Landscape Plan

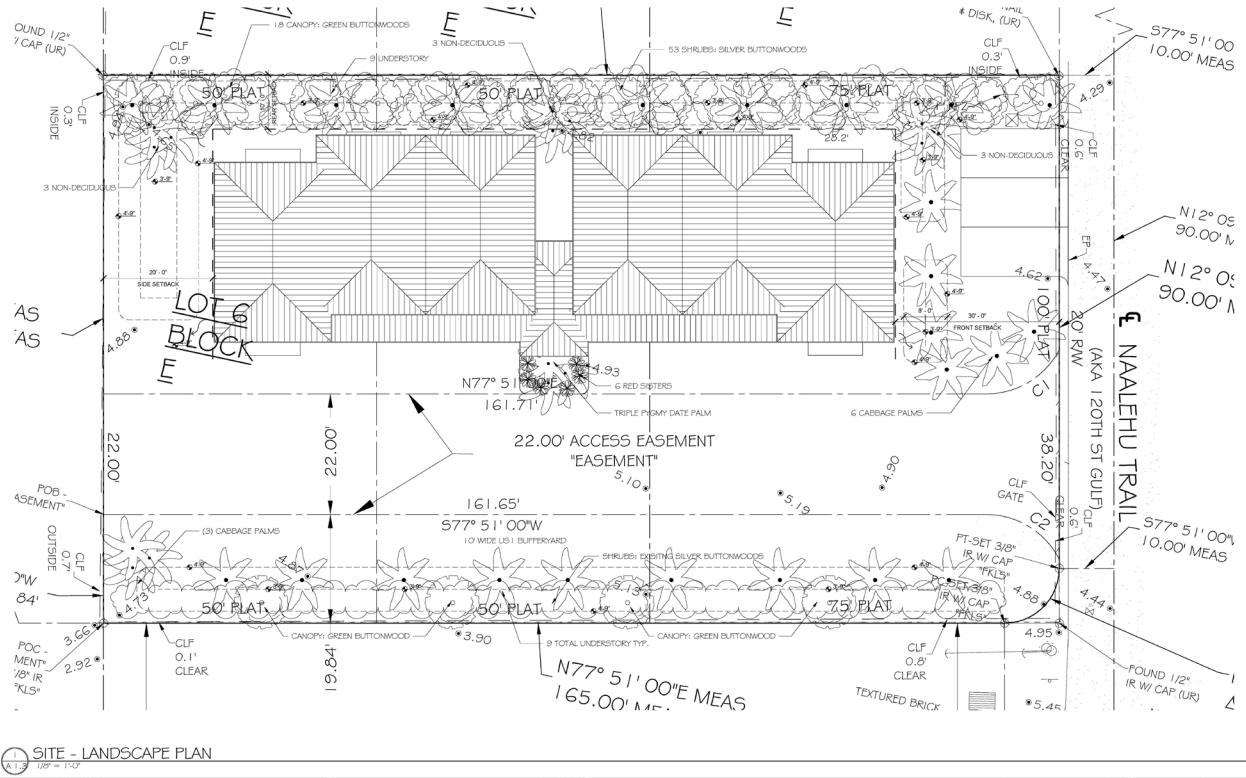


Exhibit "C": Elevation Plan

