



CITY COUNCIL AGENDA STATEMENT

Meeting Date: January 10, 2023
To: Honorable Mayor and Council Members
From: George Garrett, City Manager
Through: Brian Shea, Planning Director

Agenda Item: Resolution 2023-02, Consideration Of A Request By David Crum 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 Restaurant/Bar, Marina/Boat Rentals, Retail Shop/Convenience Store and Affordable Housing Units At The Property Located At Vacant Land Overseas Highway, Which Is Legally Described As 11 66 32 Key Vaccas Part Government Lot 2 and Bay Bottom North Of And Adjacent To Part Lot 2, Marathon, Monroe County, Florida, Having Real Estate Number 00103770-000000. Nearest Mile Marker 50.

APPLICANT/ OWNER: David Crum

AGENT: David Crum & Catherine Felton

LOCATION: The project site is located at Vacant Land Overseas Highway at approximately mile marker 50. See Figure 1.

REQUEST: A Conditional Use Approval for the development of a restaurant/bar, marina/boat rentals, retail shop/convenience store and affordable housing units.

LOT SIZE:
Total size: Approximately 237,581 square feet
184,814 square feet of Bay Bottom
188,766 square feet of Upland

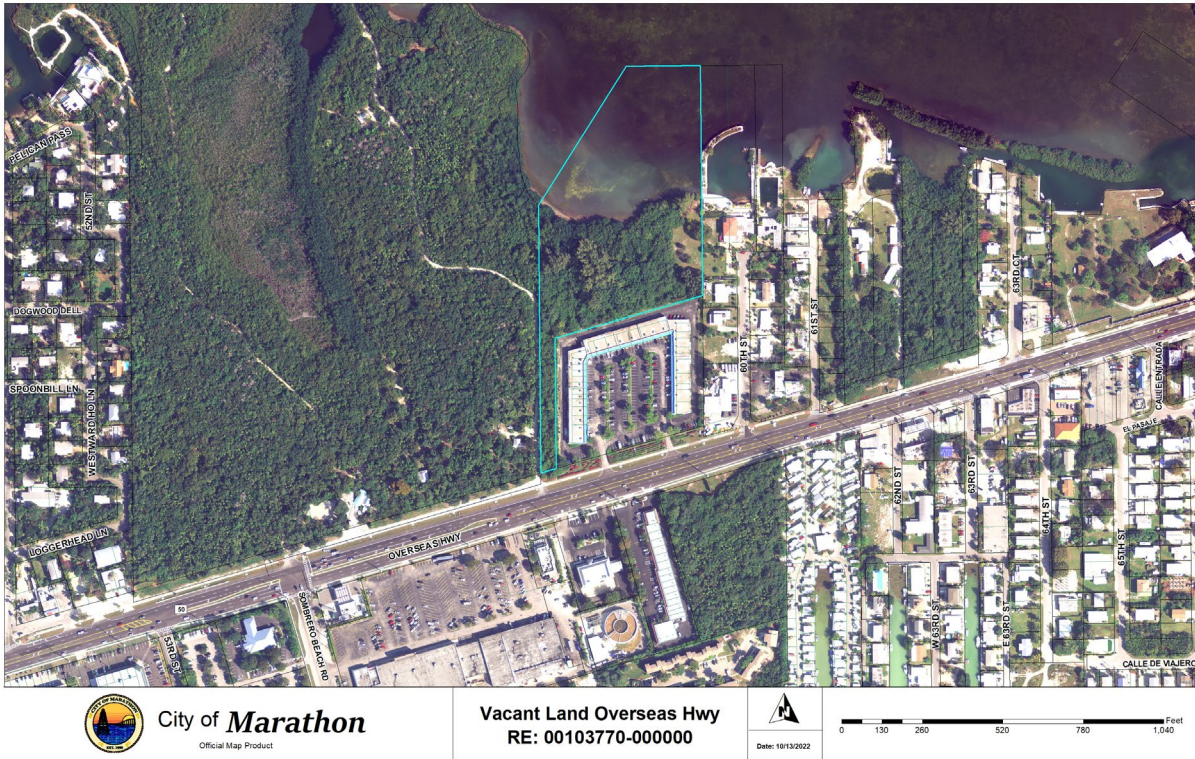
SURROUNDING ZONING AND USES:

Table with 3 columns: Direction, Zoning, and Use. Rows include North (N/A, Gulf Of Mexico), East (Residential Medium (RM), Residential Homes), South (Mixed Use (MU), Gulfside Village), and West (Conservation Native Area (C-NA), Crain Point).

EXISTING CONDITIONS:

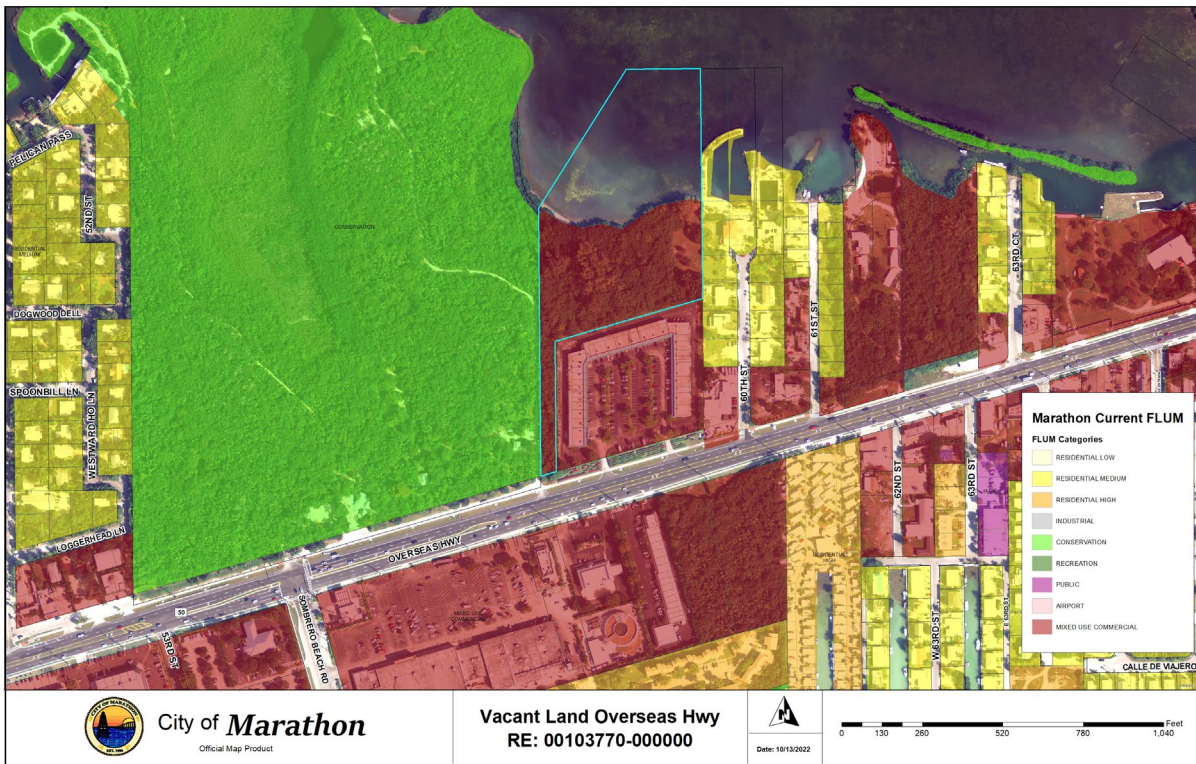
The project site consists of undeveloped vacant land. The existing FLUM is Mixed Use Commercial (MU-C), and the Zoning is Mixed Use (MU). See Figures 2 & 3.

**Figure 1
Project Site**



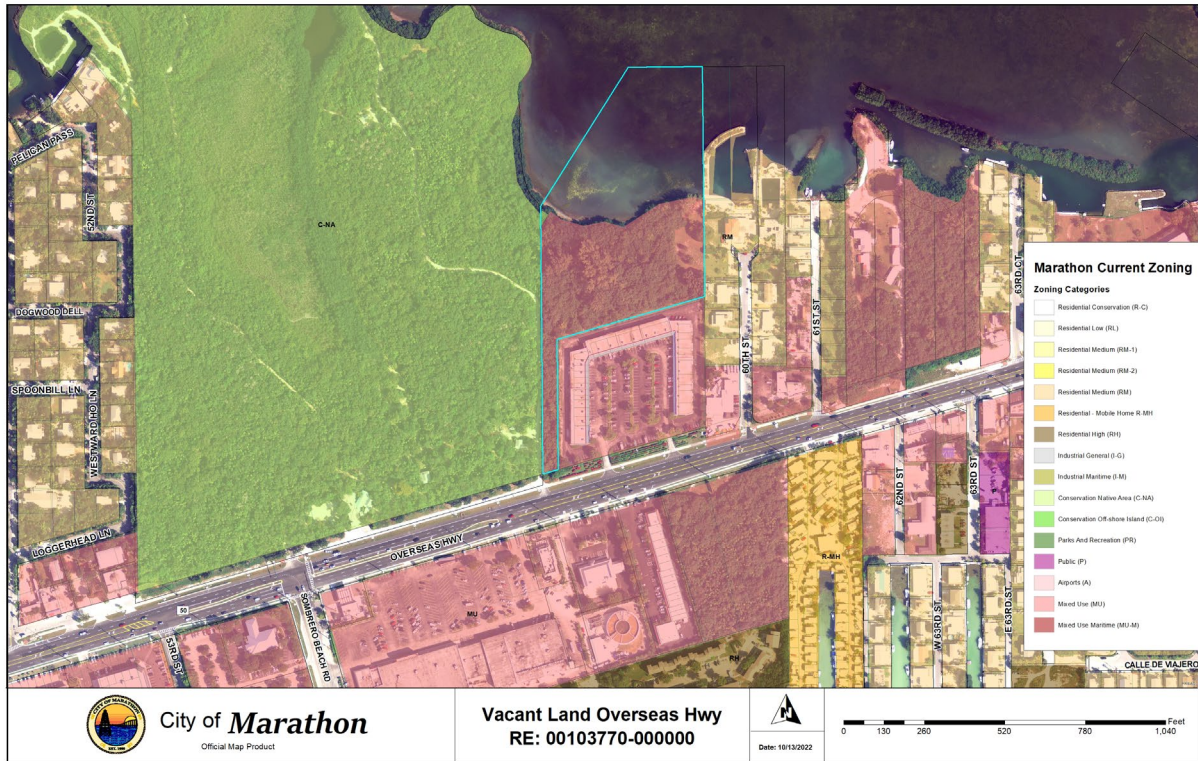
**FUTURE LAND USE MAP DESIGNATION:
Mixed Use Commercial (MU-C). See Figure 2.**

**Figure 2
Future Land Use Map**



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

Figure 3
Zoning Map



PROPOSED DEVELOPMENT:

The applicant requests the development of a Restaurant/Bar, Marina, Retail/Office Space and Affordable Housing Units.

- Affordable Units: 10 Units
- Marina: 10 Slips
- Commercial: 9,500 square feet (Restaurant)
1,400 square feet (Small office space)
3,000 square feet (Retail Space)

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 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 development of a restaurant/bar, boat rentals and affordable housing units and 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 residential uses are allowed as Conditional Uses in the MU district. Marinas are also a Conditional Use in MU zoning. 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. Table 103.15.3 further qualifies the allowed range of intensities based on the intensity of retail use. In its review of this project, staff determined the overall development proposal to be consistent with a “restaurant/bar” use. As such, the following table reflects the proposed project intensity (shown as floor area (FA)) against the maximum intensity and floor area allowed under the constraints imposed on retail, high intensity development. The table also reflects the need for additional floor area that the applicant will have to acquire through the commercial building permit allocation system (CBPAS). The ten (10) affordable units require 2,904 sq ft each for a total of 29,040 sq ft. The remaining upland after deducting the affordable units is 159,726 sq ft.

Caroline's on the Water			
Calculation of Intensity Limits & Requirements for CBPAS Application			
Use 1		Restaurant/Bar	
Intensity		Low	
FAR (See Table 103.15.3)		0.75	
Site Area		159,726 sq ft	
Limits of FA Based on Intensity		119,794 sq ft	
Requested FA	FA Entitlements	FA Required Through CBPAS	% of FA Limit
11,900	0	11,900	9%

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, 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.” This land use category is intended to provide for the commercial zoning districts where various types of commercial, retail, and office uses may be permitted at intensities which are consistent with the community character and the natural environment and to provide for various types of residential uses, including employee housing and commercial apartments. Whenever and wherever possible, the maintenance and enhancement of commercial fishing and related traditional uses such as retail, storage, and repair and maintenance which support the commercial fishing industry shall be encouraged within this land use category. Heavy industrial uses and similarly incompatible uses shall be prohibited. Lawfully established RV parks where the majority of the RVs spaces are maintained and rented as transient spaces are also allowed within the Mixed-Use Commercial future land use category.” The proposed project includes development of similar uses which is consistent with the Mixed-Use classification.

The existing land use pattern in the project vicinity consists of residential to the east, commercial uses to the south, Gulf of Mexico to the north, and conservation to the west.

Th redevelopment of the site will result in significant improvement to the site development quality, 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;

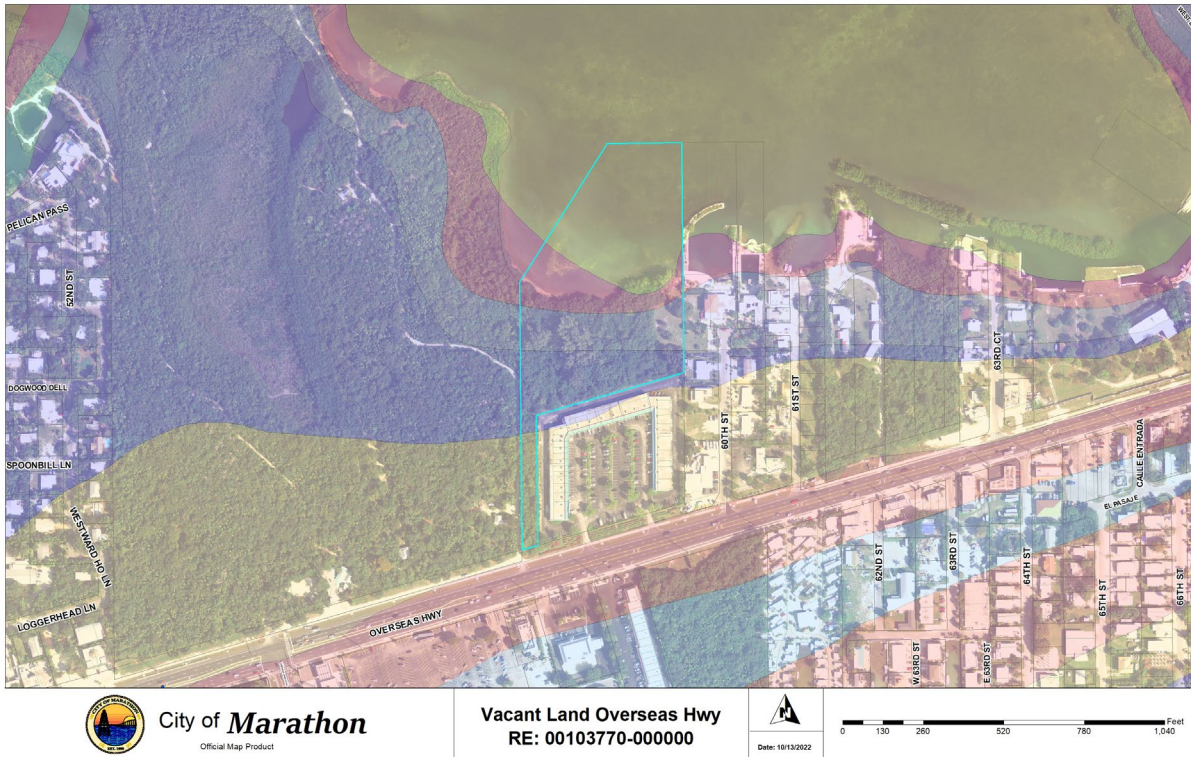
The proposed use is the creation of both commercial and residential use which has not had any known impact to the health, safety, and welfare of the public. Additionally, the creation of the office and restaurant space are not expected to create any adverse impacts to the health, safety, and welfare of the public as well as the affordable housing units.

The marina will also be required to meet the following criteria as additional protections for health, safety, and welfare:

- Will not have a detrimental effect on the use of such waters for navigation, transportation, recreational or other public purposes and public conveniences;
- Will not restrict the free use of the waterways and navigable waters;
- Will not have a material adverse effect upon the flow of water or tidal currents in the surrounding waters;
- Will not have a material adverse effect upon erosion, erosion control, extraordinary storm drainage, shoaling of channels, or would be likely to adversely affect the water quality presently existing in the area or limit progress that is being made toward improvement of water quality in the area;
- Will not have a material adverse effect upon the natural beauty and recreational advantages of the City;
- Will not have a material adverse effect upon the conservation of wildlife, marine life, and other natural resources, including shorelines, so as to be contrary to the public interest;
- Will not have a material adverse effect upon the uplands surrounding or necessarily affected by such plan or development;
- Will not have a material adverse effect on the community character or safety, health, and welfare of the general public; or
- Will not be inconsistent with adopted State plans (i.e., manatee protection plans), the City of Marathon Comprehensive Plan, other formally adopted natural resource management plans, or any other City ordinances or regulations.

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.

Flood Zones



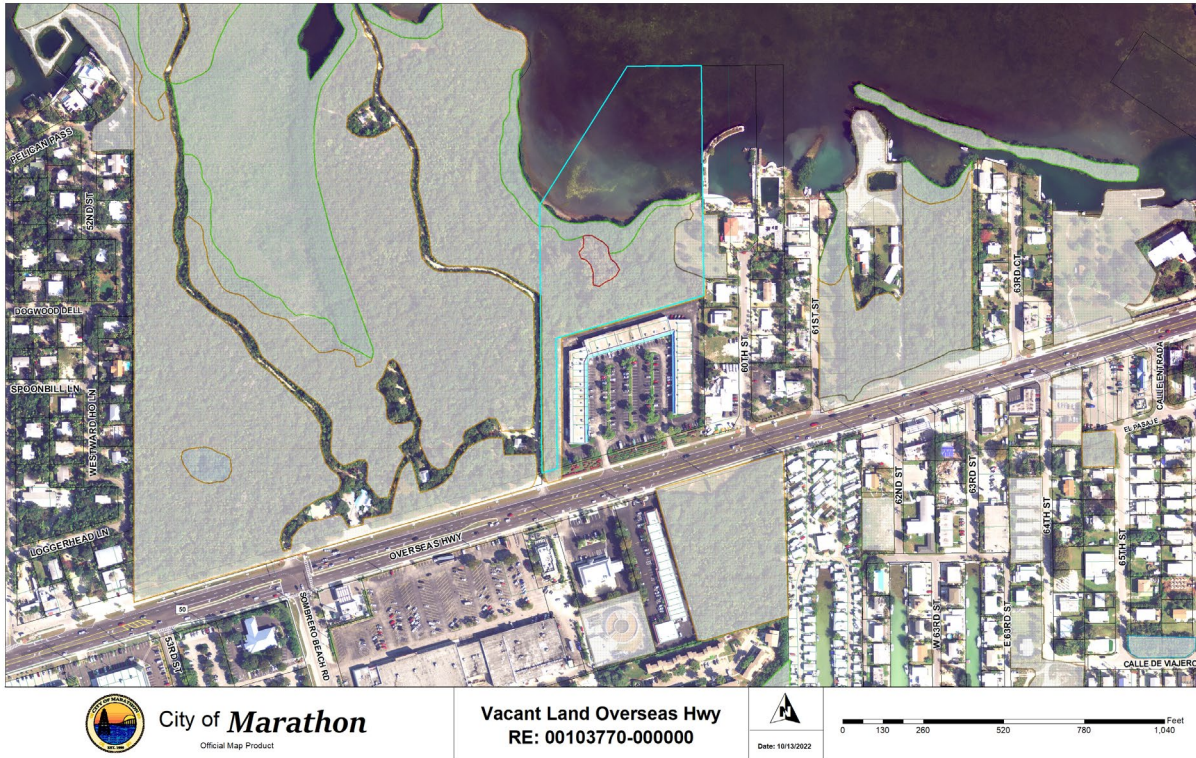
Therefore, with conditions, the request is **in compliance** with the requirements of these sections.

- Marina Operating Permit will be required.

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 undeveloped. A site inspection showed the current conditions as disturbed low hardwood hammock habitat, open land, a mangrove dominated wetland fringe and Gulf of Mexico submerged bottom. The uplands are highly impacted by over 90% invasive exotic vegetation. A portion of the property is recognized as possible habitat for a state or federally listed animal species, the eastern indigo snake as well as the stock island tree snail and keys tree cactus. Figure 7 shows that this portion falls under the category of mangroves and hammock as well as exotic. Should any development necessitate the removal of existing native vegetation within these areas an impact determination will be made using the Species Assessment Guides.

Figure 6
FEMA-FWS Species Focus Area Map



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.

Pursuant to Article Two of Chapter 106 any native trees within footprints will have to be mitigated. These transplanted and mitigated trees will be monitored per Section 106.10.

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, Stock Island Tree Snail and Keys Tree Cactus, 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.

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 combined uses will create 1,004 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	Mid-Day Peak Hour Trips			PM Peak Hour Trips		
			In	Out	Total	In	Out	Total
<i>Proposed Development</i>								
Multifamily Housing (Low-Rise)	10 DU	60	4	2	6	3	2	5
Marina	10 Berths	26	1	1	2	1	1	2
Small Office Space	1,400 SF	20	2	2	4	1	2	3
Retail Space	2,000 SF	109	14	12	26	7	6	13
Restaurant	9,500 SF	789	48	31	79	50	24	74
Total		1,004	69	48	117	62	35	97

Ingress and egress to the properties is an existing curb cut with Crane Point Hammock. The site plan proposes adding a driveway. The trip generation analysis of the traffic study shows that with the analyzed units and commercial, the daily trips generated would be 1,004.

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 the commercial uses on the parcel:

Use	Code Citation	Requirement	Spaces Required
Mixed Use Development (Restaurant)	107.47	1 per 3 seats, plus required stacking spaces, plus 1 per every 2 employees on the largest shift	50
Viewing Deck Restaurant	107.47	1 per 3 seats, plus required stacking spaces, plus 1 per every 2 employees on the largest shift	15
Bar/Lounge	107.47	10 per 1,000 sq ft GFA	20
Viewing Deck Bar/Lounge	107.47	10 per 1,00 sq ft	21
Convenience Store	107.47	1 per 200 sq ft of sales area	3
Retail Sales & Service	107.47	3 per 1,000 sf of GFA, plus 1 per employee at largest shift	5
Marina	107.47	1 per 2 wet slips	5
Residential Housing Units	107.47	2 per dwelling unit	20
Total Required			124
Total Provided			130

Section 107.52 includes a requirement that one handicapped space be provided for every 25 spaces required. For 124 required spaces, five handicapped space is required. Parking space sizes are 9' x 18' for 90-degree parking, and handicapped spaces are 12' x 21' as required by Code.

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 developer has provided 13 proposed bicycle parking spaces.

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 prior to permit issuance.
- The final site plan must show the bicycle racks on site prior to permit issuance.

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

The proposed project consists of a new development of a restaurant/bar, marina, retail, and residential housing. New lighting will be constructed for this project. The applicant must provide detailed lighting plans which conform to the letter with the City of Marathon LDR's. The applicant's detailed plans should achieve the net result of no detrimental noise, glare or odors being generated by any of the uses.

Therefore, the with the conditions above, 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;

Section 107.39 requires that all dumpsters and recycling bins be fully enclosed and screened. The final site plan must show the dumpster located on a pad and will have to be screened.

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.

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 engineering drawings to support force main connection along US 1.
- 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 redevelopment will have a de minimis impact on recreation and open space.
- Roadways: The applicant is developing the site with a higher intensity than was contained within the development; therefore, a traffic study is being required to analyze the impact on

transportation facilities. Furthermore, final site layout and traffic flow will be dependent on FDOT, City of Marathon Public Works, and City Fire Marshal analysis.

- Educational Facilities: This redevelopment will have a de minimis impact on educational facilities.

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.
- 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 East by property zoned RM, and to the West by property zoned C-NA. There is a high project boundary buffer requirement for portions of the project area adjacent to parcels zoned RM and C-NA. 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

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. Access driveway to be located closer to the mixed used property but may vary to protect native vegetation.

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 Final Site Plan must show a six-foot tall masonry wall or six-foot tall opaque fence, such as vinyl or wood.

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.

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

- All signs will be reviewed and approved for compliance with the City of Marathon LDR's.

8. Required yards and other open space;

Section 106.16 established required open space for the project. The site is disturbed with exotics; therefore, a twenty percent open space requirement applies. This results in 37,753 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 development of property that is disturbed with exotics. Adjacent uses include a commercial establishment and other residential dwelling units. A development of the property into a mix of affordable residential units and commercial with marina and restaurant is expected to be fully compatible with these uses. The proposed project represents improvement to the current state of 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 final site plan must show the buildings height.

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 104.03 Affordable Housing contains special requirements.

The following criteria are applicable to this redevelopment:

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

Section 104.30 Marina contains special requirements.

The following criteria are applicable to this redevelopment:

- Prior to the issuance of any permit under this article, special conditions may be imposed for such permit. These conditions should include any item which can be reasonably expected to enhance the probability that the proposed activity will be conducted in compliance with the intent of this article. Those conditions may include, but are not limited to, field inspections by City staff, reports, monitoring, bonding, easements, guaranteed survival of non-affected and/or replanted vegetation, protective barriers, setbacks, protective earthwork, replants, signage, restoration and/or mitigation. Conditions may also be applied in order to assure consistency with the Comprehensive Plan.
- Prior to the issuance of the Certificate of Occupancy, the marina shall obtain and maintain a Marina Operating Permit, in compliance with all standards of Article 24, Chapter 102.

- It shall be unlawful for any person to deviate from the specific conditions of the permit as set forth by this article without the prior approval of the City Manager.

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

Planning Commission recommended adding a condition for a formula breakout for the units themselves to serve the different levels of affordability noted above. Low Income Housing Tax Credit (LIHTC) projects have specific requirements based upon the yearly RFAs. These projects are subsidized by the federal tax credit funding that accounts for an approximate seventy-five cents for every dollar, which allows for the lower rents to be collected. This project would not be seeking this funding source. The County has specific sub area policies where limit breakouts are required. The City does not have those policies, and therefore Council will have to set the specific breakouts if desired as an additional 26th condition.

Therefore, with the conditions noted above, 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 enhancement of property, as well as the development of new affordable residential units and commercial uses on site. As such the development, including the overall upgrading and improvement of the sites, 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 at both project sites, and is not expected to create a nuisance, traffic congestion or threat to public, health, safety, or welfare.

RECOMMENDATION:

Planning Commission recommends approval of the proposed Conditional Use Permit allowing a Restaurant/Bar, Marina, Retail/Office Space and Affordable housing units to the City Council (3-1). Planning staff recommends conditional approval to City Council. The proposed conditions of approval are listed below.

Conditions of Approval

- 1) The applicant will provide fire protection plans in accordance with fire protection requirements as outlined by the City Fire Marshal.
- 2) The final site plan must show the required parking spaces with prior to permit issuance.
- 3) The final site plan must show the bicycle racks on site prior to permit issuance.
- 4) The applicant will meet all floodplain related requirements as part of the Building Permit

- process;
- 5) The applicant will provide engineering drawings to support force main connection along US 1.
 - 6) Permit site plan must meet 25yr-72hr storm event per storm water code Section 107.88.
 - 7) The applicant will obtain the required permits to fully enclose and screen the dumpster in accordance with Section 107.39;
 - 8) The applicant will obtain sign permits for any signs erected on the property, as required under the Code; and
 - 9) The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.
 - 10) Staff requires that upon planning review, if the redevelopment is found to have any effect on the Eastern Indigo Snake Habitat, Stock Island Tree Snail and Keys Tree Cactus, then the prescribed protection measures must be undertaken, and the information poster posted on site.
 - 11) A final Landscape/mitigation plan must be submitted prior to permit issuance.
 - 12) A Final Landscape Plan must be submitted showing the proper treatments and buffers, including the appropriate treatment types and trees.
 - 13) A Final Site Plan must be submitted showing the buildings meeting the required setbacks, parking locations, and access drives.
 - 14) Prior to the issuance of the Certificate of Occupancy, the marina shall obtain and maintain a Marina Operating Permit, in compliance with all standards of Article 24, Chapter 102.
 - 15) Prior to the issuance of any permit under this article, special conditions may be imposed for such permit. These conditions should include any item which can be reasonably expected to enhance the probability that the proposed activity will be conducted in compliance with the intent of this article. Those conditions may include, but are not limited to, field inspections by City staff, reports, monitoring, bonding, easements, guaranteed survival of non-affected and/or replanted vegetation, protective barriers, setbacks, protective earthwork, replants, signage, restoration and/or mitigation. Conditions may also be applied in order to assure consistency with the Comprehensive Plan.
 - 16) It shall be unlawful for any person to deviate from the specific conditions of the permit as set forth by this article without the prior approval of the City Manager.
 - 17) The applicant must obtain Allocations for affordable units.
 - 18) Dwelling units shall contain less than or equal to 1,800 square feet of habitable space.
 - 19) Occupancy of affordable housing units is limited to those meeting the following income requirements:
 - 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;
 - 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;
 - 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;
 - 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;
- 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;
- 20) 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;
 - 21) 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;
 - 22) 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
 - 23) If the dwelling units utilize affordable housing BPAS allocations, the requirements of Subsection 107.06(c-f) shall also apply.
 - 24) 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.
 - 25) A Final Site Plan must show a six-foot tall masonry wall or six-foot tall opaque fence, such as vinyl or wood.
 - 26) Affordable units shall be set aside as directed by Council based upon the income levels noted in condition 19.

HUD income limits for FY 2022 and the associated maximum rental prices:

FY 2022 Income Limit	Persons in Household							
	1	2	3	4	5	6	7	8
Middle Income (160%)	\$114,800	\$131,200	\$147,600	\$164,000	\$177,200	\$190,300	\$203,400	\$216,500
Mil Monthly Rent	\$2,870	\$3,280	\$3,690	\$4,100	\$4,430	\$4,758	\$5,085	\$5,413
Moderate Income (120%)	\$86,100	\$98,400	\$110,700	\$123,000	\$132,900	\$142,725	\$152,550	\$162,375
Mol Monthly Rent	\$2,153	\$2,460	\$2,768	\$3,075	\$3,323	\$3,568	\$3,814	\$4,059
Median Income (100%)	\$71,750	\$82,000	\$92,250	\$102,500	\$110,750	\$118,938	\$127,125	\$135,313
MI Monthly Rent	\$1,794	\$2,050	\$2,306	\$2,563	\$2,769	\$2,973	\$3,178	\$3,383
Low Income (80%)	\$57,400	\$65,600	\$73,800	\$82,000	\$88,600	\$95,150	\$101,700	\$108,250
LI Monthly Rent	\$1,435	\$1,640	\$1,845	\$2,050	\$2,215	\$2,379	\$2,543	\$2,706
Very Low Income (50%)	\$35,900	\$41,000	\$46,150	\$51,250	\$55,350	\$59,450	\$63,550	\$67,650
VLI Monthly Rent	\$898	\$1,025	\$1,154	\$1,281	\$1,384	\$1,486	\$1,589	\$1,691
Ext. Low Income (30%)	\$21,550	\$24,600	\$27,700	\$30,750	\$33,250	\$37,190	\$41,910	\$46,630
ELI Monthly Rent	\$539	\$615	\$693	\$769	\$831	\$930	\$1,048	\$1,166

Requirements for affordable units:

- Must contain less than or equal to 1,800 square feet of habitable space.
- Must meet all applicable requirements of the United States Department of Housing and Urban Development minimum property standards as to room sizes, fixtures, landscaping and building materials, when not in conflict with applicable laws of City.
http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/hsg/4910.1
- Must be deed restricted in perpetuity or as allowed by law for a minimum 50-year.
- For affordable units that are part of mixed income development the following additional standards apply:
 - Must be visually indistinguishable from the market rate units in the development in terms of overall design, execution, and use of materials.
 - Affordable units may be smaller than the market rate units but shall be proportionally comparable in bedroom count to the market rate units in the development.
 - Affordable units must not be clustered, and shall be interspersed within the upland portion of the development.

Maximum sale price of affordable housing:

- HUD median income for Monroe County for the year 2022: **\$100,500**
- Maximum sale price for 2022: **\$482,400**
 - Calculated as follows (Median Income x 1.6) x 3
- Owner occupied income verification is required prior to sales closing and occupancy of dwelling unit. The Affordable Housing Application must be completed in full.

**CITY OF MARATHON, FLORIDA
RESOLUTION 2023-02**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA OF A REQUEST BY DAVID CRUM 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 RESTAURANT/BAR, MARINA/BOAT RENTALS, RETAIL SHOP/CONVENIENCE STORE AND AFFORDABLE HOUSING UNITS AT THE PROPERTY LOCATED AT VACANT LAND OVERSEAS HIGHWAY, WHICH IS LEGALLY DESCRIBED AS 11 66 32 KEY VACCAS PART GOVERNMENT LOT 2 AND BAY BOTTOM NORTH OF AND ADJACENT TO PART LOT 2, MARATHON, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00103770-000000. NEAREST MILE MARKER 50.

WHEREAS, David Crum (The “Applicant”) filed an Application on October 5th, 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 development approval of a restaurant/bar, marina/boat rentals, retail shop/convenience store and affordable housing 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 December 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 10th day January 2023, 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 23-01, a copy of which is attached hereto as Exhibit "A", granting a Conditional Use Permit to David Crum 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 10th DAY OF JANUARY 2023.

THE CITY OF MARATHON, FLORIDA

Luis Gonzalez, 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 23-01**

A DEVELOPMENT ORDER APPROVING A REQUEST BY DAVID CRUM 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 RESTAURANT/BAR, MARINA/BOAT RENTALS, RETAIL SHOP/CONVENIENCE STORE AND AFFORDABLE HOUSING UNITS AT THE PROPERTY LOCATED AT VACANT LAND OVERSEAS HIGHWAY, WHICH IS LEGALLY DESCRIBED AS 11 66 32 KEY VACCAS PART GOVERNMENT LOT 2 AND BAY BOTTOM NORTH OF AND ADJACENT TO PART LOT 2, MARATHON, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00103770-000000. NEAREST MILE MARKER 50.

WHEREAS, David Crum (The “Applicant”) filed an Application on October 5th, 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 development approval of a restaurant/bar, marina/boat rentals, retail shop/convenience store and affordable housing 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 December 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 10th day January 202, 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

FINDINGS OF FACT:

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

CONDITIONS IMPOSED:

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

Conditions of Approval

- 1) The applicant will provide fire protection plans in accordance with fire protection requirements as outlined by the City Fire Marshal.
- 2) The final site plan must show the required parking spaces with prior to permit issuance.
- 3) The final site plan must show the bicycle racks on site prior to permit issuance.
- 4) The applicant will meet all floodplain related requirements as part of the Building Permit process;

- 5) The applicant will provide engineering drawings to support force main connection along US 1.
- 6) Permit site plan must meet 25yr-72hr storm event per storm water code Section 107.88.
- 7) The applicant will obtain the required permits to fully enclose and screen the dumpster in accordance with Section 107.39;
- 8) The applicant will obtain sign permits for any signs erected on the property, as required under the Code; and
- 9) The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.
- 10) Staff requires that upon planning review, if the redevelopment is found to have any effect on the Eastern Indigo Snake Habitat, Stock Island Tree Snail and Keys Tree Cactus, then the prescribed protection measures must be undertaken, and the information poster posted on site.
- 11) A final Landscape/mitigation plan must be submitted prior to permit issuance.
- 12) A Final Landscape Plan must be submitted showing the proper treatments and buffers, including the appropriate treatment types and trees.
- 13) A Final Site Plan must be submitted showing the buildings meeting the required setbacks, parking locations, and access drives.
- 14) Prior to the issuance of the Certificate of Occupancy, the marina shall obtain and maintain a Marina Operating Permit, in compliance with all standards of Article 24, Chapter 102.
- 15) Prior to the issuance of any permit under this article, special conditions may be imposed for such permit. These conditions should include any item which can be reasonably expected to enhance the probability that the proposed activity will be conducted in compliance with the intent of this article. Those conditions may include, but are not limited to, field inspections by City staff, reports, monitoring, bonding, easements, guaranteed survival of non-affected and/or replanted vegetation, protective barriers, setbacks, protective earthwork, replants, signage, restoration and/or mitigation. Conditions may also be applied in order to assure consistency with the Comprehensive Plan.
- 16) It shall be unlawful for any person to deviate from the specific conditions of the permit as set forth by this article without the prior approval of the City Manager.
- 17) The applicant must obtain Allocations for affordable units.
- 18) Dwelling units shall contain less than or equal to 1,800 square feet of habitable space.
- 19) Occupancy of affordable housing units is limited to those meeting the following income requirements:
 - 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;
 - 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;
 - 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;
 - 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;
 - 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;
- 20) 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;

- 21) 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;
- 22) 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
- 23) If the dwelling units utilize affordable housing BPAS allocations, the requirements of Subsection 107.06(c-f) shall also apply.
- 24) 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.
- 25) A Final Site Plan must show a six-foot tall masonry wall or six-foot tall opaque fence, such as vinyl or wood.
- 26) Affordable units shall be set aside as directed by Council based upon the income levels noted in condition 19.

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 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 _____, 2023.

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 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