

CITY COUNCIL AGENDA STATEMENT



Meeting Date: February 14, 2023
To: Honorable Mayor and Council Members
From: George Garrett, City Manager
Through: Brian Shea, Planning Director

Agenda Item: **Resolution 2023-14**, Consideration Of A Request By Vaca Homes, LLC For A Conditional Use Permit And Preliminary Plat Pursuant To Chapter 102 Article 10 And Article 13 Of The City Of Marathon Land Development Regulations (LDRs) Entitled “Subdivision Of Land/Plats And Re-Plats,” And “Conditional Use Permits” Respectively, For A Plat And Site Plan Approval Authorizing The Development of Eleven (11) Market Rate Residential Units And Club House With Gym, Meeting Room And Office Space Located At 11901 Overseas Highway; Which Is Legally Described As Part Of Lot 3 South Of Overseas Highway, Section 5, Township 66 South, Range 33, Fat Deer Key, Monroe County, Florida; Having Real Estate Number 00100740-000000, Nearest Mile Marker 53.

APPLICANT/ OWNER: Vaca Homes, LLC

AGENT: Sady Torres

LOCATION: The project site is located south of US1 at Vaca Cut nearest mile marker 53.

Figure 1 - Project Site



REQUEST: The applicant is seeking approval of a preliminary plat and conditional use for the development of eleven (11) residential units and club house with gym, meeting room and office space.

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



LOT SIZE:
Total acreage: 3.95 acres or 172,062 square feet

SURROUNDING ZONING AND USES:

	<u>Zoning</u>	<u>Use</u>
North	Mixed Use & Residential	Vacant Lot & Residential homes
East	Mixed Use	San Pablo Catholic Church
South	N/A	Bonefish Bay
West	N/A	Vaca Cut

EXISTING CONDITIONS:
The project site consists of one undeveloped parcel with an access driveway.

PROPOSED REDEVELOPMENT:

Residential Units: 11 Units - Club House with gym, meeting room and office space

Figure 4 - Proposed Redevelopment Site Plan

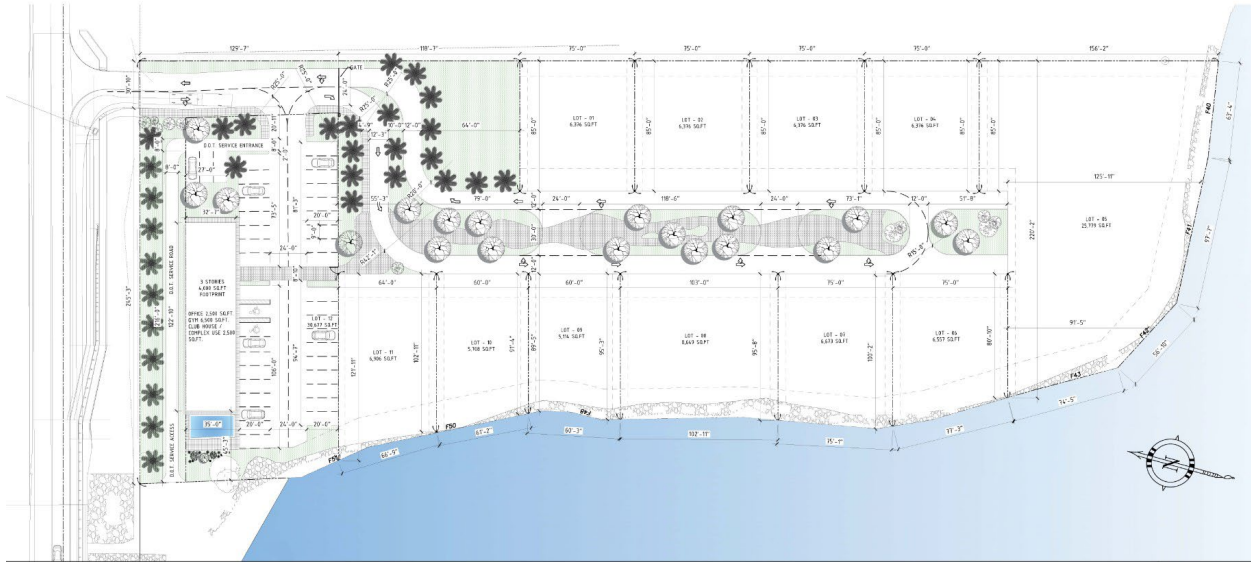
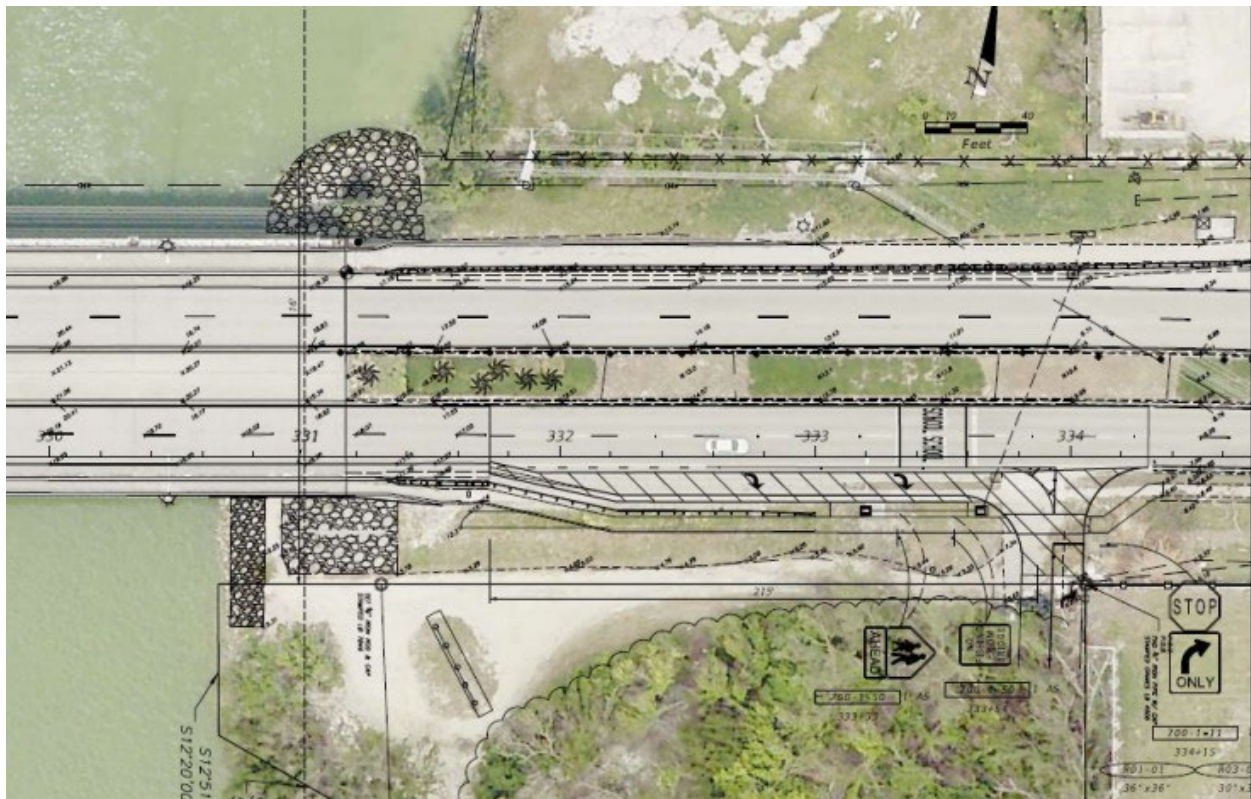


Figure 5 - Proposed Redevelopment Deceleration Lane Site Plan



BACKGROUND:

The proposed project is the development of residential units and a club house with gym, meeting room and office space.

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 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 creation of residential housing 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 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. This site has the density potential for 23 market rate units. The applicant is proposing 11 units.

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

Therefore, 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 proposed project includes the creation of residential housing which is consistent with the Mixed-Use classification.

The existing land use pattern in the project vicinity consists of residential development and the San Pablo Church to the east, existing residential uses and some commercial to the north, residential uses of Key Colony Beach across the water to the south, and residential uses and commercial to the west across Vaca Cut.

Otherwise, the development 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 development of residential use 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 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.

Additionally, the applicant will provide the required fire access and fire exit requirements to ensure that there is no adverse effect on the health, safety, and welfare of the public.

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

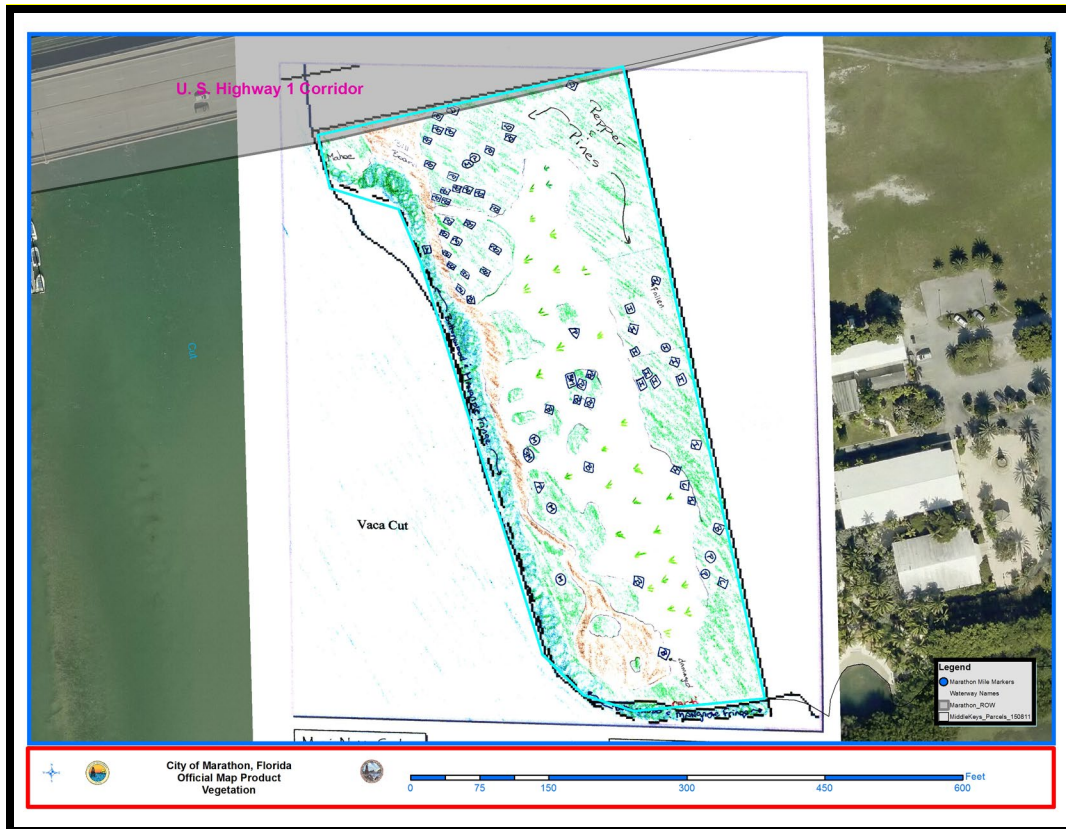
D. The proposed conditional use minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment:

The existing conditions maps indicate the subject area is designated as undeveloped. The property is recognized as possible habitat for a state or federally listed animal species, the eastern indigo snake. Figure 6 shows that this portion falls under the category of exotics, undeveloped land, and a mangrove fringe. The proposed redevelopment is setback from the mangrove fringe as per setback requirements in the code.

Figure 6 - Species Focus Area Habitat



Figure 7 - Vegetation Survey



A final tree mitigation/relocation plan will be required as part of the permitting process. This mitigation plan must show the native vegetation protection for native trees not being impacted directly by the proposed development. Any native vegetation within the development footprint will be addressed via the standards set forth in Section 106.09 of the code and referenced in the Species Assessment Guides. An additional eight buttonwoods must be planted on site, as the previous eight buttonwoods planted in 2005 for mitigation purposes did not survive the required mitigation time frame.

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

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

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

- Staff requires that upon planning review, if the redevelopment is found to have any effect on the Eastern Indigo Snake Habitat, then the prescribed protection measures must be undertaken, and the information poster posted on site.
- Eight buttonwood trees must be planted on site in addition to the required landscaping by code.
- A final mitigation/relocation plan must be submitted as part of the permitting process.

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 in the Traffic Study indicates that there will be an increase in trip generation from the existing use to the proposed use for the apartments. The traffic study determined that there would be an increase in 102 average daily trips associated with the development. 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.

Ingress and egress to the property is currently provided through an existing curb cut onto US1. Vehicular access will be provided via the existing right-turn in/right-turn out only driveway on US1 and will include an exclusive eastbound right-turn lane. The applicant has received preliminary approvals with FDOT to establish an acceleration and deceleration lane on US1. The proposed driveways are an improvement to the existing access and should create safer ingress and egress than what currently exists.

Otherwise, the applicant proposes to meet all the Fire Marshall's requirements in terms of access to this site. The addition of a fire hydrant further into the site could provide coverage for the proposed development as well as for the Church.

Therefore, the project should be considered as **not in compliance**, ONLY **in compliance** if the conditions below are met:

- Applicant must obtain an Access and Drainage Permit from the Florida Department of Transportation, as well as any other permits from the FDOT for the proposed deceleration lane in the FDOT ROW.
- The applicant must submit a final fire safety plan showing that the access road meets the running radius, overhangs, and unobstructed width as noted in NFPA 1 (2012): 18.2.3.4.3.1, 18.2.3.4.1.2, and 18.2.3.4.4, respectively.
- Additional fire hydrant to be installed on site.

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

Parking requirements are outlined in Section 107.46 (Parking Schedule). The applicant has proposed a total of sixty-three spaces for the project. Twenty-two spaces are located under the structure, while the remaining spaces are located at the clubhouse complex.

Section 107.52 includes a requirement that one handicapped space be provided for every 25 spaces required. For 63 required spaces, 3 handicapped spaces are required. Two handicapped spaces are provided, an additional space may be addressed upon permit submittal within the 31 additional spaces. Parking space sizes are 9' x 18' for 90-degree parking, and handicapped spaces are 12' x 22' 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 final site plan must therefore show the location of nine bicycle parking spaces.

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

- The final site plan submitted for permitting must show the required ADA and bicycle spaces.

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

The proposed project consists of development of a new residential use. The applicant will ensure that the development does not have any adverse effect through noise, glare, or odors. The refuse created by the development will be screened on site per section 107.39 of the code. The proposed development will be screened from US 1 with a Type 1 streetscape buffer, as referenced in Section 6 of this report. Additionally, the applicant must propose exterior lighting designed to be compatible with the surrounding properties that will minimize glare and promote traffic safety, as laid out in Section 107.54 of the Code.

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;

Section 107.39 requires that all dumpsters and recycling bins be fully enclosed and screened. The final site plan must indicate that the dumpsters are screened and located for easy access and waste removal.

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 via a new onsite connection point. The existing connection point is not sufficient for the residential uses. The applicant will work with the utilities department, and a 6" vacuum main connecting to 122nd Street as well as a 6' gate valve outside of site within the right of way will be required.
- 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 redeveloping the site with a higher intensity than was existing; therefore, a traffic study was completed to analyze the impact on transportation facilities.
- 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.
- City approval of the modified connection to the City Wastewater Utility will be required.
- 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 an MU property. Therefore there is no project boundary buffer required. The final landscape plans must be approved by the City Biologist.

Section 107.71 A. requires that all mixed-use residential developments provide Type 1 Streetscape buffer along the entire street frontage. The project is adjacent to US1. The final landscape plan must show compliance with the buffer standards.

As mentioned previously the applicant is required to provide at a minimum eight button wood trees as part of mitigation. Additionally, the existing native vegetation on the final mitigation/relocation plan may be used as a buffer with the church property.

Table 103.15.2 and Table 106.28.1 outline setback requirements in the MU district as follow: front yard 0-30'; side yards 5'; and rear setbacks have a 20' setback from the landward extent of the mangrove fringe.

Parking area landscaping is required by Section 107.66 of the Code. Proposed parking area landscaping meets the standards set forth in the code. The applicant proposes parking spaces underneath the building that cannot be landscaped; however, site interior landscaping requirements for the structure will ensure that these spaces are still screened from the road.

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.

7. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety and compatibility with surrounding uses;

A review of sign requirements at this stage in development approval is not necessary; however, signs for the project will be reviewed prior to issuance of a building permit according to Chapter 107, Article 7, Signs.

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

Therefore, 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.
- A final lighting plan must be submitted prior to building permit approval.

8. Required yards and other open space;

Section 106.16 established required open space for the project. The site is scarified with exotics; therefore, a twenty percent open space requirement applies. There is common area currently being proposed as open space. In addition, each platted lot with be required to provide twenty percent open space. For parcels along the water the rear setback open space requirement is 40%.

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

9. General compatibility with surrounding properties; and

The project is the development of single-family residential homes, club house with gym, meeting

area and office space in an area of the city which is relatively dense and intense. Adjacent uses include a Church and other residential dwelling unit. The development of residential units is expected to be fully compatible with these uses. The proposed project represents improvement to the current state of the site 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 applicant proposes to develop within this 42' limit.

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 redevelopment:

- The private yard area for rooftop balcony dwelling is provided by the roof or balconies of the structure.
- The total area of the mixed-use or commercial apartments, including patios and access way shall not exceed the area covered by the ground floor and any covered walks or arcades.
- Each unit shall have access to a balcony or patio that is separate from the access to the unit, provides adequate privacy and the size shall be two-tenths (2/10) of unit floor area or a minimum of 60 square feet in size.
- The patio area may be wholly or partially replaced by the provision of a recreation yard provided on site. Recreational yards shall be a minimum one-tenth (1/10) of unit floor area.

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

Therefore, with the conditions note 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 redevelopment consists of the enhancement of a long standing vacant parcel. 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 Commission recommended approval of the proposed Conditional Use Permit and Preliminary Plat allowing eleven (11) market rate residential units and club house with gym, meeting rooms and office space to City Council (3-2). Planning staff recommends conditional approval to City Council. The project as proposed is generally in compliance ONLY if the ingress and egress conditions are met. For purposes of timing final DOT approvals must be review prior to final plat being adopted. If these conditions are not met, then the project shall be not in compliance of the Conditional Use requirements. The proposed conditions of approval are listed below:

Conditions of Approval

- 1) The applicant will obtain approval of final landscaping and mitigation plans (as needed) and lighting plans in coordination with the City Biologist prior to building permit issuance;
- 2) Eight buttonwood trees must be planted on site in addition to the required landscaping by code.
- 3) Applicant must obtain an Access and Drainage Permit from the Florida Department of Transportation, as well as any other permits from the FDOT for the proposed deceleration lane in the FDOT ROW prior to CO.
- 4) The applicant will provide fire protection plans in accordance with fire protection requirements as outlined by the City Fire Marshal; The applicant must submit a final fire safety plan showing that the access road meets the running radius, overhangs, and unobstructed width as noted in NFPA 1 (2012): 18.2.3.4.3.1, 18.2.3.4.1.2, and 18.2.3.4.4 respectively.
- 5) Additional fire hydrant to be installed on site.
- 6) The applicant will meet all floodplain related requirements as part of the Building Permit process;
- 7) The final site plan submitted for permitting must show the required ADA and bicycle spaces.
- 8) The applicant will obtain City approval of the stormwater management system prior to Building Permit issuance;
- 9) The applicant will upgrade sewer main from 4' to 6' sewer main from 122nd Street to project site and supply 6' gate valve outside of site within the ROW;
- 10) The applicant will obtain sign permits for any signs erected on the property, as required under the Code; and
- 11) Staff requires that upon planning review, if the redevelopment is found to have any effect on the Eastern Indigo Snake Habitat, then the prescribed protection measures must be undertaken, and the information poster posted on site.
- 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 indicate that the dumpsters are screened and located for easy access and waste removal.
- 14) The applicant will seek additional permits from FDOT for acceleration lane and potential no U-Turn signs at 117th Street and US1.
- 15) The applicant must obtain any other State or Federal permits and approvals prior to permit issuance.
- 16) The private yard area for rooftop balcony dwelling is provided by the roof or balconies of the structure.
- 17) 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.
- 18) 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.
 - 19) 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.
 - 20) The Applicant must obtain and transfer eleven (11) market rate housing units, 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 AMENDMENTS DO NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF ANY RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT.
 - 21) The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.
 - 22) All construction of required streets and utilities shall be completed pursuant to this Section. Construction Guarantees shall be required pursuant to Sections 102.50 and 102.51 and shall provide that if the construction of the required improvements is not completed within two (2) years after approval of the final plat, the City may deem the applicant to be in default pursuant to Section 102.52 D.

ANALYSIS OF PLAT APPROVAL REQUEST:

The standards for re-plat approval are established in Chapter 102, Article 10 of the Land Development Regulations. The application for the preliminary plat approval is being simultaneously reviewed per Section 102.45.D.2. through the Conditional Use process. Pursuant to the Code, the Planning Commission and City Council shall give due consideration to the evaluation criteria addressed within this report as well as the Conditional Use when rendering a decision to grant or deny the requested permit.

All construction of required streets and utilities shall be completed pursuant to this Section. Construction Guarantees shall be required pursuant to Sections 102.50 and 102.51 and shall provide that if the construction of the required improvements is not completed within two (2) years after approval of the final plat, the City may deem the applicant to be in default pursuant to Section 102.52 D.

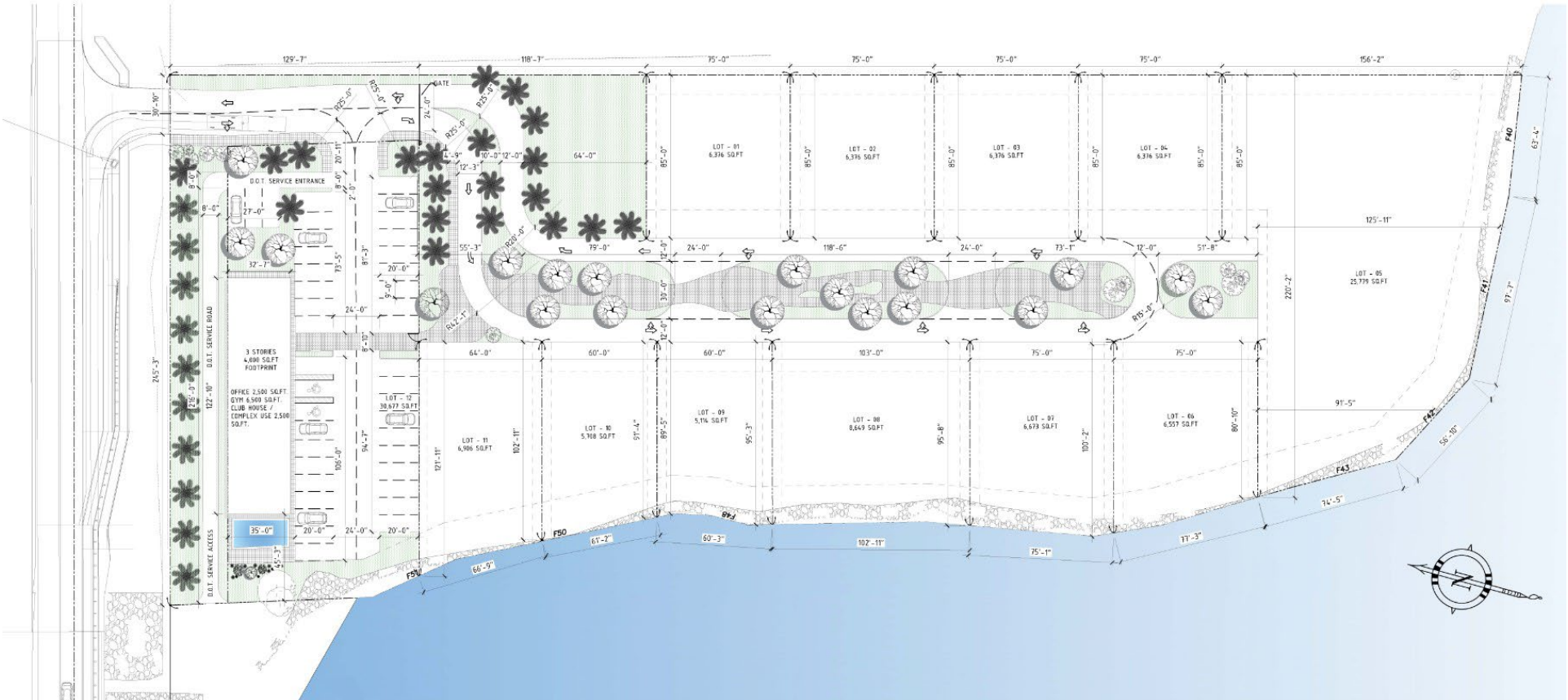
RECOMMENDATION:

With the following conditions, the Planning staff recommends approval of the proposed preliminary plat.

Conditions:

1. All conditions of the Conditional Use must be met prior to building permit issuance.

Attachments:
Attachment A: Proposed Site Plan



**CITY OF MARATHON, FLORIDA
RESOLUTION 2023-14**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA OF A REQUEST FOR A CONDITIONAL USE PERMIT AND PRELIMINARY PLAT APPROVAL PURSUANT TO CHAPTER 102 ARTICLE 10 AND ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (LDRS) ENTITLED “SUBDIVISION OF LAND/PLATS AND RE-PLATS,” AND “CONDITIONAL USE PERMITS” RESPECTIVELY, FOR A PLAT AND SITE PLAN APPROVAL AS SUBMITTED BY VACA HOMES, LLC. LOCATED AT 11901 OVERSEAS HIGHWAY; WHICH IS LEGALLY DESCRIBED AS PART OF LOT 3 SOUTH OF OVERSEAS HIGHWAY, SECTION 5, TOWNSHIP 66 SOUTH, RANGE 33, FAT DEER KEY, MONROE COUNTY, FLORIDA; HAVING REAL ESTATE NUMBER 00100740-000000, NEAREST MILE MARKER 53.

WHEREAS, Vaca Homes, LLC (The “Applicant”) filed an Application on November 29th, 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 eleven (11) residential units and clubhouse with gym, meeting room and office space; 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 23rd day January 2023, 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 and Preliminary Plat pursuant to Chapter 102, Articles 10 & 13 of the LDRs; and

WHEREAS, on the 14th day February 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 and Preliminary Plat pursuant to Chapter 102, Articles 10 & 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 23-04, a copy of which is attached hereto as Exhibit "A", granting a Conditional Use Permit to Vaca Homes, LLC subject to the Conditions imposed. The Director of Planning is authorized to sign the Development Order on behalf of the City.

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

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 14th DAY OF FEBRUARY 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 23-04**

A DEVELOPMENT ORDER APPROVING A REQUEST BY VACA HOMES, 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 ELEVEN (11) RESIDENTIAL UNITS AND CLUBHOUSE WITH GYM, MEETING ROOM AND OFFICE SPACE LOCATED AT 11901 OVERSEAS HIGHWAY; WHICH IS LEGALLY DESCRIBED AS PART OF LOT 3 SOUTH OF OVERSEAS HIGHWAY, SECTION 5, TOWNSHIP 66 SOUTH, RANGE 33, FAT DEER KEY, MONROE COUNTY, FLORIDA; HAVING REAL ESTATE NUMBER 00100740-000000, NEAREST MILE MARKER 53.

WHEREAS, Vaca Homes, LLC (The “Applicant”) filed an Application on November 29th, 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 eleven (11) residential units and clubhouse with gym, meeting room and office space; 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 23rd day January 2023, 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 and Preliminary Plat pursuant to Chapter 102, Articles 10 & 13 of the LDRs; and

WHEREAS, on the 14th day February 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 and Preliminary Plat pursuant to Chapter 102, Articles 10 & 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 eleven (11) residential units and clubhouse with gym, meeting room and office space, 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 obtain approval of final landscaping and mitigation plans (as needed) and lighting plans in coordination with the City Biologist prior to building permit issuance;
- 2) Eight buttonwood trees must be planted on site in addition to the required landscaping by code.
- 3) Applicant must obtain an Access and Drainage Permit from the Florida Department of Transportation, as well as any other permits from the FDOT for the proposed deceleration lane in the FDOT ROW prior to CO.

- 4) The applicant will provide fire protection plans in accordance with fire protection requirements as outlined by the City Fire Marshal; The applicant must submit a final fire safety plan showing that the access road meets the running radius, overhangs, and unobstructed width as noted in NFPA 1 (2012): 18.2.3.4.3.1, 18.2.3.4.1.2, and 18.2.3.4.4 respectively.
- 5) Additional fire hydrant to be installed on site.
- 6) The applicant will meet all floodplain related requirements as part of the Building Permit process;
- 7) The final site plan submitted for permitting must show the required ADA and bicycle spaces.
- 8) The applicant will obtain City approval of the stormwater management system prior to Building Permit issuance;
- 9) The applicant will upgrade sewer main from 4' to 6' sewer main from 122nd Street to project site and supply 6' gate valve outside of site within the ROW;
- 10) The applicant will obtain sign permits for any signs erected on the property, as required under the Code; and
- 11) Staff requires that upon planning review, if the redevelopment is found to have any effect on the Eastern Indigo Snake Habitat, then the prescribed protection measures must be undertaken, and the information poster posted on site.
- 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 indicate that the dumpsters are screened and located for easy access and waste removal.
- 14) The applicant will seek additional permits from FDOT for acceleration lane and potential no U-Turn signs at 117th Street and US1.
- 15) The applicant must obtain any other State or Federal permits and approvals prior to permit issuance.
- 16) The private yard area for rooftop balcony dwelling is provided by the roof or balconies of the structure.
- 17) 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.
- 18) 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.
- 19) 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.
- 20) The Applicant must obtain and transfer eleven (11) market rate housing units, 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 AMENDMENTS DO NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF ANY RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT.**
- 21) The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.
- 22) All construction of required streets and utilities shall be completed pursuant to this Section. Construction Guarantees shall be required pursuant to Sections 102.50 and 102.51 and shall provide that if the construction of the required improvements is not completed within two (2) years after approval of the final plat, the City may deem the applicant to be in default pursuant to Section 102.52 D.

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 _____, 2023.

Diane Clavier, City Clerk