



CITY COUNCIL AGENDA STATEMENT

Meeting Date: August 8, 2023
From: Brian Shea, Planning Director
Through: George Garrett, City Manager

Agenda Item: **Resolution 2023-66**, Consideration Of A Request By Marathon LLC For A Conditional Use Permit, Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (“The Code”) Entitled “Conditional Use Permits”, Authorizing The Development Of A Climate Controlled Storage Facility and Sixteen (16) Single Family Residential Units Consisting Of Five (5) Parcels Located At 775 107th Street Ocean; Which Is Legally Described As Township 66 Range 33 Key Vaccas Part Government Lot 1 and Part Government Lot 2 Part Parcel 3 And Adjacent Bay Bottom South Of And Adjacent Part Government Lot 1, 796 106th St Ocean; Which Is Legally Described As Section 6 Township 66 Range 33 Key Vacca Part Government Lot 2 Part Parcel 3, 797 106th Street; Which Is Legally Described As Section 6 Township 66 Range 33 Key Vaca Part Government Lot 2 Parcel 2, 630 107th Street; Which Is Legally Described As Section 6 Township 66 Range 33 Key Vaca Part Government Lot 1, And Vacant Land 107th Street; Which Is Legally Described As Section 6 Township 66 Range 33 Key Vaccas Part Government Lot 1, Monroe County, Florida, Having Real Estate Numbers 00104260-000000, 00104430-000300, 00104430-000200, 00104240-000400 and 00104240-000100. Nearest Mile Marker 53.

APPLICANT/ OWNER: Marathon LLC

AGENT: Jim Saunders

LOCATION: The project site consists of five parcels located at 630, 775 and Vacant Land 107th Street Ocean as well as 796 and 797 106th Street Ocean at nearest mile marker 53. See Figure 1.

REQUEST: A Conditional Use Permit approving a change of use and redevelopment to a climate-controlled storage facility and sixteen (16) single family residential units; having the real estate numbers 00104260-000000, 00104240-000100, 00104240-000400, 00104430-000300 and 00104430-000200.

LOT SIZE: Total acreage 5.12 acres or 223,188 square feet

SURROUNDING ZONING AND USES:

| | <u>Zoning</u> | <u>Use</u> |
|--------------|---|--|
| North | Mixed Use (MU) | JJ’s Dog House, Specialty Hardware and Vacant Land |
| West | Residential Mobile Home (R-MH) and Mixed Use (MU) | Residential Housing and State-owned vacant land |
| East | Mixed Use (MU) and Residential High (RH) | Muffler Man, Storage Building and Residential Houses |
| South | N/A | Open Water |

EXISTING CONDITIONS:

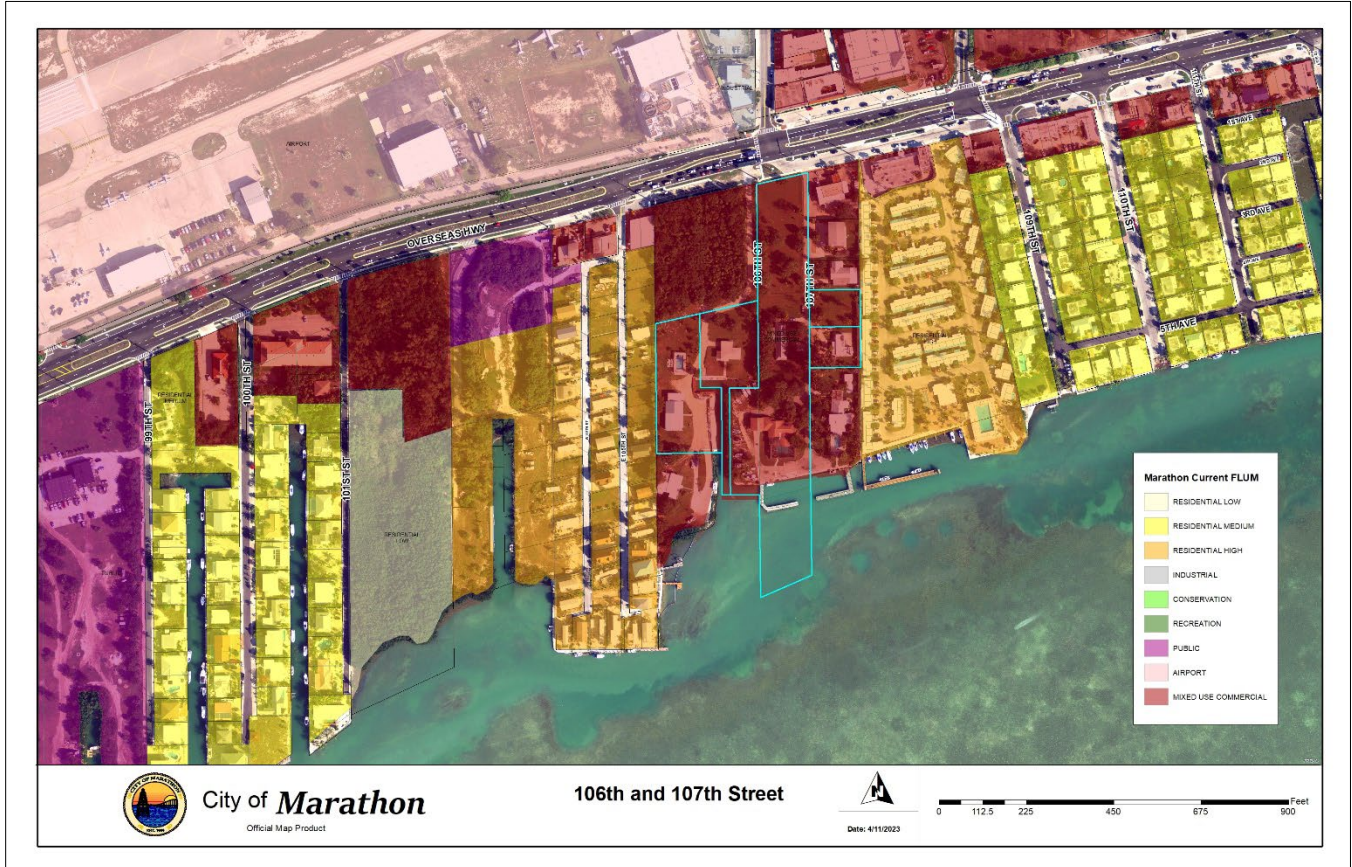
The project site consists of existing residential units and vacant land. It has been determined that nine (9) Market Rate Building Rights currently exist on the combined parcels. The existing FLUM is Mixed Use Commercial (MU-C), and the zoning is Mixed Use (MU). See Figures 2 and 3.

**Figure 1
Project Site**



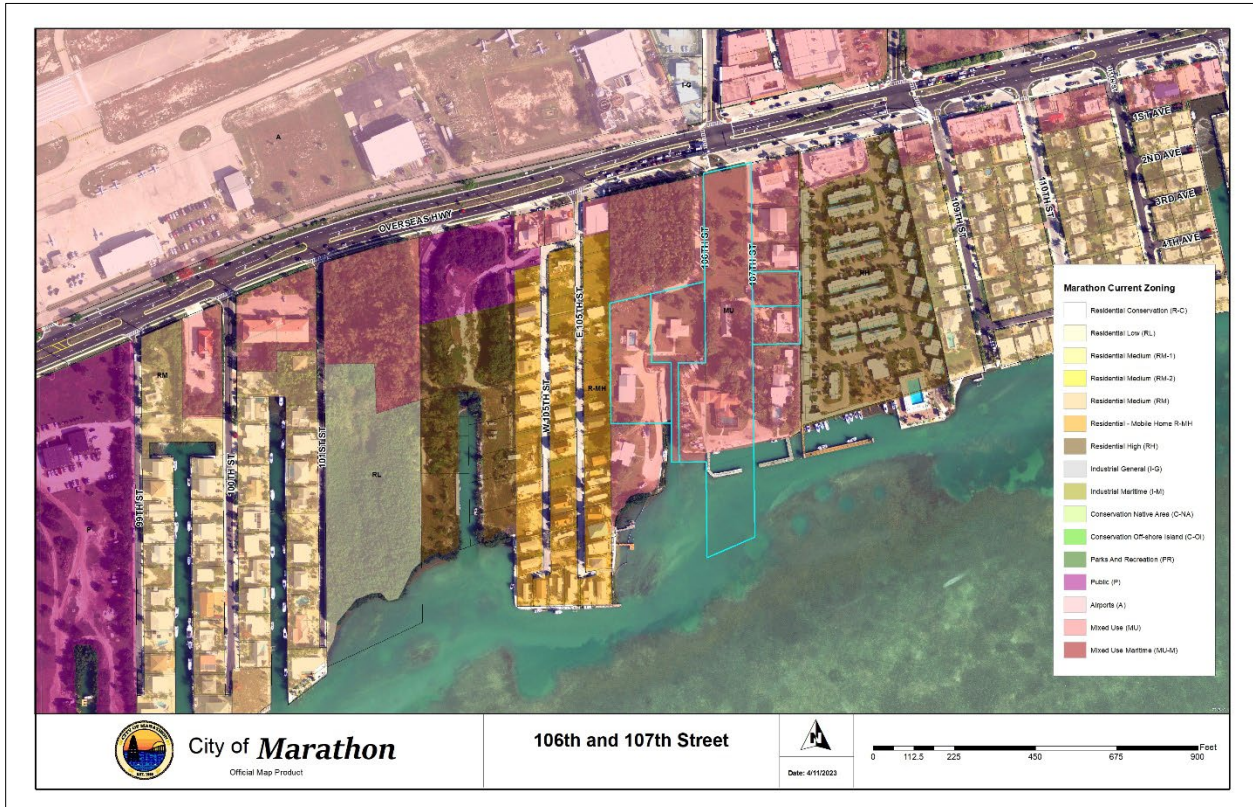
FUTURE LAND USE MAP DESIGNATION:
Mixed Use Commercial (MU-C). See Figure 2.

Figure 2
Future Land Use Map



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

Figure 3
Zoning Map



PROPOSED REDEVELOPMENT:

The Applicant requests a change of use to develop a climate-controlled storage facility and sixteen (16) single family residential units. The existing single-family homes will be demolished. With the combined five parcels it has been determined that nine (9) market rate building rights exist. The project will be completed in phases.

BACKGROUND:

The proposed project seeks to redevelop property currently used as a single-family residential home to construct a new climate-controlled storage facility and demolish the existing residential units to build sixteen (16) new single family residential units. The total property size is 223,188 square feet.

EVALUATION FOR COMPLIANCE WITH THE LAND DEVELOPMENT REGULATIONS:

The criteria for evaluating a Conditional Use Approval are outlined in Chapter 102, Article 13, Conditional Use Permits, in the City of Marathon Land Development Regulations.

CRITERIA

A. The proposed use is consistent with the Comprehensive Plan and LDRs;

The proposed development project is located within the Mixed Use (MU) Zoning District. Per Chapter 103, Article 2, Section 103.09 of the Land Development Regulations, the district is designed to “accommodate a wide variety of commercial and retail activities that will result in the most efficient and attractive use of the City’s historic business district and the US1 Corridor, in an effort to recognize the role of US1 as the City of Marathon’s ‘Main Street.’ The MU district also provides for large-scale retail and commercial business opportunities in other areas, including larger shopping center, specialty shopping centers, individual multi-tenant commercial buildings, automotive services and sales, fast food restaurants, affordable housing uses, transient lodging and other retail establishments that serve the community at large.”

The proposed project is for a climate-controlled storage facility and sixteen (16) single family residential units, an allowed use pursuant to Table 103.15.1 of the LDRs, supported by elements of the Comprehensive Plan. Relevant Policies concerning this project follow:

City of Marathon Comprehensive Plan

- a. “Policy 1-1.1.2 Adopt Compatibility for Residential and Non-Residential Review Criteria,”
- b. “Policy 1-1.1.3 Protect Residential Neighborhood Character,” and
- c. “Policy 1-1.1.4 Transition between Land Uses

The project is surrounded by commercial development to the north and east with the exception of partially the property to the east which is residential and commercial and the property to the west which is residential.

d. Policy 1-3.1.4 Future Land Use Categories

The Future Land Use Map (FLUM) designates the parcels as Mixed-Use Commercial. Within this designation various commercial uses are permitting in addition to commercial, transient, and permanent residential uses as well as marinas and storage facilities. The project is consistent with the intent of this district and neither a zoning nor FLUM change is necessary for this project.

e. Policy 1-3.2.5 Maximum Height

The maximum height of any new structure associated with the redevelopment of the property shall not exceed 42 feet, except as provided by the City Code, as amended. The conceptual elevation plans submitted demonstrate compliance with this requirement.

f. Policy 1-3.2.7 Restrict Density and Intensity of Development

The proposed density is consistent with the thresholds outlined in Table 1-1 of the Comprehensive Plan. Based on the upland area of 5.12 acres, the proposed residential units and storage facility

utilize 75.8% of the density/intensity allowed for this site. The density for each of the proposed uses has been calculated independently.

g. Policy 1-3.3.1 b., e., and f. General Redevelopment Criteria

The proposed new business promotes the revitalization of the city’s commercial area, with existing commercial to the north and east. The US 1 corridor will be enhanced with the proposed landscaping.

h. Policy 1-3.4.2 Protect Established Densities & Policy 1-3.4.3 Replacement of Existing Densities and Intensities

The redevelopment plan includes using nine existing transient building rights. The remaining will need to be obtained. The commercial floor area will be requested from the City’s available pool.

City of Marathon Land Development Regulations

- Section 103.09 – Mixed Use (MU)

The MU District is intended to accommodate a wide range of commercial and residential uses and activities including the proposed climate-controlled storage facility.

- Table 103.15.1 Uses By Zoning District – Mixed Use (MU)

This redevelopment is consistent with Table 103.15.1, uses by Zoning District, via a Conditional Use Permit Application, as contained herein.

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 use. The FAR for mixed-use developments may be increased to .75 if mitigated by the development of affordable/workforce housing is provided. As such, the following table reflects the proposed project density and intensity (shown as floor area (FA)) against the maximum intensity and floor area allowed under the constraints imposed on the 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).

| | |
|---------------------------------------|----------------|
| Marathon LLC | |
| Total 223,188 sq ft | |
| Market Rate (16) | 116,160 |
| Storage Facility | 10,000 |
| FAR (See Table 103.15.3) | 0.30 |
| Maximum allowed Square Footage | 32,108.4 sq ft |
| Total Proposed | 10,000 sq ft |

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 proposed.

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

- Section 107.47 Parking

Parking for the site and the project is met with the proposed required sixty-seven parking spaces. The development provides eight exterior standard parking spaces for the storage facility, one exterior handicap space and eighty-six parking spaces located at residential units for a total of ninety-five spaces.

- Section 107.40 Maximum Height

The project sites are below the forty-two (42) foot height limitation of the City's LDRs.

- Sections 107.63 – 107.72 Landscaping

The landscape plan includes a list of native trees to provide shade and temperature reduction along the internal roadway. The parcel to the west is zoned Residential Mobile-Home, parcel to the east is zoned Residential High and a 15' wide buffer is required. Additional buffers are required along the south-west property line. Along US 1 corridor to the north the landscape planting will consist of a variety of native plant material varying in size and height to screen the storage building. A mix of canopy, understory and shrubs will be installed throughout the property.

- Sections 107.73 – 107.81 Open Space

The project site meets the minimum open space requirements of twenty (20) percent and therefore meets the minimum requirements of the LDRs.

- Sections 107.82 – 107.85 Fences and Screening

The project meets City screening and landscaping requirements.

- Sections 107.87 – 107.97 Stormwater Management

The existing Stormwater Management Plan associated with this site demonstrates compliance with the requirements of the LDRs.

- Sections 107.98 – 107.102.5 Floodplain Management

The site building will be located above FEMA minimum flood elevations. The commercial building will be flood proofed as required. Therefore, the project is compliant with this requirement of the LDRs.

The project as proposed meets the basic definition of development in the MU zoning district. 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 site is surrounded by other compatible commercial uses to the north and east as well as residential homes to the west.

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

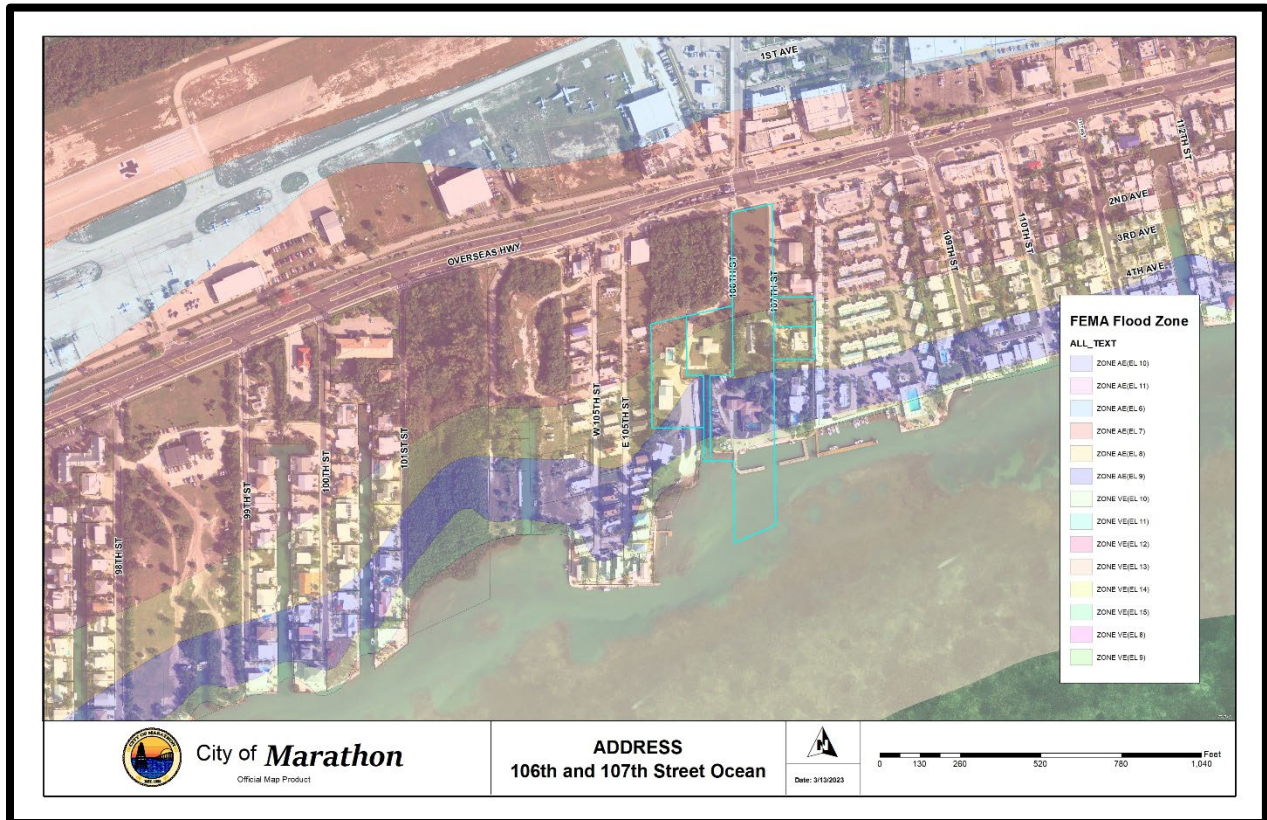
C. The proposed use shall not adversely affect the health, safety, and welfare of the public;

The proposed conditional use will enhance the community by providing additional indoor climate-controlled storage as well as new single-family homes. The project will not cause any negative impacts to the City’s health, safety, and welfare.

The existing structures will be demolished and new units to be built above FEMA’s minimum flood elevations (VE10, AE9, AE8 and AE7) as shown in Figure 4 and is therefore compliant. The commercial building will be flood proofed to meet requirements.

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

Figure 4
Flood Zones



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

There will be no negative impacts on habitat, environment, or water quality parameters. The proposed stormwater management system shall retain water generated from rain events on site

thereby improving the quality of the near shore waters by treating and maintaining the stormwater on site. The shoreline is developed. A map of the area indicates that surrounding properties lie within the FEMA-FWS Species Focus Area for the Eastern Indigo Snake. However, this has absolutely no impact on the project before the Planning Commission and City Council.

Figure 5
FEMA – FWS Species Focus Area Maps



All vegetation on site is a mix of non-invasive exotic plantings. Several native palms and trees will be replanted or preserved per Conceptual Landscape Plan that was submitted. Buffers will be installed as well as streetscape treatment along US 1 as a mixture of shrubs and canopy trees. Native vegetation must be mitigated per Section 106.10.

Project design requires containing all storm water on the property as required by Code.

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

- The project exceeds 1 acre of development, and as such an FDEP general permit for NPDES will be required.
- Per the LDC, the stormwater criteria require retention of the runoff from a 25yr-72hr storm event. However, in lieu of these criteria, the minimum requirements will be the retention

of 1 ½” of runoff for all residential lots and then runoff from 4 ½ inch rainfall event for the roads and commercial lot.

- All runoff from the site shall be routed to the proposed retention swales. A detailed grading plan shall be required for review of construction plans.
- Any native vegetation removed must be mitigated per Section 106.10.

E. Satisfactory provisions and arrangements have been made concerning the following matters, where applicable:

1. Ingress and egress to the property and proposed structures thereon with particular reference to automotive, bicycle, and pedestrian safety and convenience, traffic flow and control and access in cases of fire or catastrophe;

A traffic study was required as the project. Parking will be provided for staff and clients of the storage facility.

| Land Use | Size | Daily Trips | AM Peak Hour Trips | | | PM Peak Hour Trips | | |
|---|-----------|-------------|--------------------|----------|-----------|--------------------|----------|-----------|
| | | | In | Out | Total | In | Out | Total |
| <i>Existing</i> | | | | | | | | |
| Single-Family Housing | 1 DU | 9 | 0 | 1 | 1 | 1 | 0 | 1 |
| Multifamily Housing | 4 DU | 24 | 0 | 2 | 2 | 1 | 1 | 2 |
| Total | | 33 | 0 | 3 | 3 | 2 | 1 | 3 |
| <i>Proposed</i> | | | | | | | | |
| Single-Family Housing | 16 DU | 149 | 3 | 8 | 11 | 9 | 6 | 15 |
| Mini-Warehouse | 10,000 SF | 15 | 1 | 0 | 1 | 1 | 1 | 2 |
| Total | | 164 | 4 | 8 | 12 | 10 | 7 | 17 |
| Difference (Proposed - Existing) | | 131 | 4 | 5 | 9 | 8 | 6 | 14 |

Compiled by: KBP Consulting, Inc. (March 2023).

The traffic will increase from previous use with the new redevelopment of the property. The project is not expected to adversely impact the operational characteristics of US1, nor will it inhibit the safe flow of traffic traveling through Marathon. The maneuverability on the site includes an interior road located between 106th and 107th Street connecting the streets so traffic may enter or exit either street to access the storage facility and residential units.

Provisions have been made as part of the redevelopment to address fire access. The proposed entrance from US1 to the site has been designed to accommodate fire and emergency vehicular access.

Bicycle racks have been provided on site. With the change of use for this project an FDOT access permit will be required.

Section 107.43 requires site triangles where the access drive intersects with the street.

Therefore, with the conditions above, 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 107.47 (Mixed-Use Development Parking Requirements). The project provides adequate parking spaces as required.

| Use | Code Citation | Requirement | Spaces Required |
|--|---------------|--------------------------------|-----------------|
| Mixed Use Development (Storage Facility) | 107.47 | 1 per employee plus 2 visitors | 3 |
| Mixed Use Development (Residential Units) | 107.47 | 4 spaces per six-bedroom unit | 64 |
| Total Required | | | 67 |
| Total Provided | | | 95 |

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

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

The proposed use has no known impact on the health, safety, and welfare of the public. No detrimental noise or glare is expected to be generated by the proposed use. Appropriate screening and buffering measures will be required per code and site plan.

Therefore, 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 be fully enclosed and screened. The site plan indicates that all dumpsters are (hidden) screened.

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

5. Utilities, with reference to location and availability;

Chapter 107, Article 13, establishes the City's Concurrency Management and certification requirements. This Conditional Use constitutes the City's Concurrency Level of Service Certificate, as follows. The project will utilize existing space and will have no additional burden on City utilities or public services.

- Wastewater: Site is already connected to sewer. Sewer and other utilities will be provided to 799 106th Street with no loss of service.
- 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 contained within the prior 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 since existing uses are being replaced in kind.

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

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

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

A landscape plan has been submitted for this application. The plan addresses the required buffers, parking lot and US 1 corridor for plantings.

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

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 parcel is undeveloped; therefore, a twenty percent open space requirement applies and the site complies with this minimum requirement.

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

9. General compatibility with surrounding properties; and

The proposed development is a Mixed-Use commercial development. The scale and layout of the proposed building are consistent with the City Code.

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.

Section 104.53 Storage Facility, Self-Service

Self-service storage facilities may be allowed pursuant to Table 103.15.1, subject to the following standards:

- A. Individual storage areas shall not exceed 400 square feet each.
- B. Storage of boats, recreational vehicles and similar equipment may be allowed, subject to the following standards:
 1. Storage shall occur only within a designated area, approved as part of the site plan.
 2. Storage areas shall not exceed 50 percent of the lot area of the site.
 3. Boats shall be stored on trailers with wheels.

4. Storage areas shall be completely screened from public rights-of-way or adjacent residential zoning districts, utilizing either the buildings associated with the storage facility or by an opaque masonry wall, or equivalent approved by the Director, a minimum of six (6) feet in height.

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

A unity of title for the parcels will be required.

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

CONCLUSION:

The Conditional Use Approval process is intended to allow for the integration of certain land uses and structures within the City of Marathon based on conditions imposed by the Council. Review is based primarily on compatibility of the use with its proposed location and with surrounding land uses. Conditional uses shall not be allowed where the conditional use would create a nuisance, traffic congestion, a threat to the public health, safety, or welfare of the community.

The proposed development is consistent with the existing land use patterns and is expected not to produce any nuisances, traffic congestion, or threat to public health, safety, or welfare. As such the development, including the overall upgrading and improvement of the site, furthers the policies for development in the City and is consistent with the Comprehensive Plan and Land Development Regulations. The project is compatible with surrounding uses, and is not expected to create a nuisance, traffic congestion or threat to public, health, safety, or welfare.

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

RECOMMENDATION:

Planning staff recommends conditional approval of the proposed Conditional Use Permit allowing a storage facility and sixteen (16) single family residential homes to be constructed provided that **all conditions are met prior to permit issuance**. The proposed conditions of approval are listed below. Planning commission recommends approval (5-0).

Conditions of Approval

1. All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
2. Additional landscape canopy and buffering be placed per site plan.
3. A sewer flow estimate from an engineer will be required to reassess any additional impact.
4. The project exceeds 1 acre of development, and as such an FDEP general permit for NPEDS will be required.
5. Per the LDR, the stormwater criteria require retention of the runoff from a 25yr-72hr storm event. However, in lieu of these criteria, the minimum requirements will be the retention

of 1 ½” of runoff for all residential lots and then runoff from 4 ½ inch rainfall event for the roads and commercial lot.

6. All runoff from the site shall be routed to the proposed retention swales. A detailed grading plan shall be required for review of construction plans.
7. Any native vegetation removed must be mitigated per Section 106.10.
8. Since the project is changing use, an FDOT access permit is required.
9. A written agreement or letter must be supplied to the City stating that sewer and other utilities will be provided to 799 106th Street with no loss of service.
10. All conditions of the Fire Marshal must be met prior to permit issuance.
11. All required parking spaces must be shown on the final site plan prior to permit issuance.
12. A final lighting plan including no interior lighting to be on neighboring properties must be submitted prior to permit issuance.
13. A final landscape plan with required buffers as well as additional buffers must be submitted prior to permit issuance.
14. Dumpsters are to be screened per code.
15. A unity of title is required for the properties.
16. 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.
17. The private yard area for rooftop balcony dwelling is provided by the roof or balconies of the structure.
18. 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.
19. 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.
20. 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.
21. The Applicant must obtain and transfer seven (7) 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.**
22. The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.
23. 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.
24. Individual storage areas shall not exceed 400 square feet each.
25. Storage of boats, recreational vehicles and similar equipment may be allowed, subject to the following standards:

26. Storage shall occur only within a designated area, approved as part of the site plan.
27. Storage areas shall not exceed 50 percent of the lot area of the site.
28. Boats shall be stored on trailers with wheels.
29. Storage areas shall be completely screened from public rights-of-way or adjacent residential zoning districts, utilizing either the buildings associated with the storage facility or by an opaque masonry wall, or equivalent approved by the Director, a minimum of six (6) feet in height.
30. Applicant must provide interior site signage to direct traffic appropriately.
31. Traffic calming measures such as a speed bump to be installed to go with directional signage.

PHASING PLAN

PHASE 1

LANDSCAPE BUFFERS
INTERNAL ROADS
FIRE TRUCK TURNAROUNDS
SEWER COLLECTION
WATER DISTRIBUTION
FIRE HYDRANTS
ELECTRIC DISTRIBUTION
DUMPSTER AREA
OVERFLOW PARKING
HOMES 1-4

DRAINAGE WILL BE PROVIDED AS DESIGNED BY PROFESSIONAL ENGINEER DURING DEVELOPMENT OF APPROPRIATE PHASE

PHASE 2

HOMES 8-13

PHASE 3

US-1/107th ST INTERSECTION IN CONJUNCTION WITH THE CITY OF MARATHON

OWNER WILL PROVIDE ANY REASONABLE EASEMENTS TO FACILITATE THIS POTENTIAL INTERSECTION REDESIGN

PHASE 4

HOMES 14-16

PHASE 5

STORAGE FACILITY

BASED ON MARKET CONDITIONS THE OWNER MAY CHOOSE TO COMBINE PHASES. IN THIS EVENT OWNER MUST INSTALL ALL ASSOCIATED INFRASTRUCTURE FOR THE PHASE.

**CITY OF MARATHON, FLORIDA
RESOLUTION 2023-66**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING A REQUEST BY MARATHON LLC FOR A CONDITIONAL USE PERMIT, PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (“THE CODE”) ENTITLED “CONDITIONAL USE PERMITS”, AUTHORIZING THE DEVELOPMENT OF A CLIMATE CONTROLLED STORAGE FACILITY AND SIXTEEN (16) SINGLE FAMILY RESIDENTIAL UNITS CONSISTING OF FIVE (5) PARCELS LOCATED AT 775 107TH STREET OCEAN; WHICH IS LEGALLY DESCRIBED AS TOWNSHIP 66 RANGE 33 KEY VACCAS PART GOVERNMENT LOT 1 AND PART GOVERNMENT LOT 2 PART PARCEL 3 AND ADJACENT BAY BOTTOM SOUTH OF AND ADJACENT PART GOVERNMENT LOT 1, 796 106TH ST OCEAN; WHICH IS LEGALLY DESCRIBED AS SECTION 6 TOWNSHIP 66 RANGE 33 KEY VACCA PART GOVERNMENT LOT 2 PART PARCEL 3, 797 106TH STREET; WHICH IS LEGALLY DESCRIBED AS SECTION 6 TOWNSHIP 66 RANGE 33 KEY VACA PART GOVERNMENT LOT 2 PARCEL 2, 630 107TH STREET; WHICH IS LEGALLY DESCRIBED AS SECTION 6 TOWNSHIP 66 RANGE 33 KEY VACA PART GOVERNMENT LOT 1, AND VACANT LAND 107TH STREET; WHICH IS LEGALLY DESCRIBED AS SECTION 6 TOWNSHIP 66 RANGE 33 KEY VACCAS PART GOVERNMENT LOT 1, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00104260-000000, 00104430-000300, 00104430-000200, 00104240-000400 AND 00104240-000100. NEAREST MILE MARKER 53.

WHEREAS; Marathon, LLC (The “Applicant”) filed an Application on March 9, 2023 for a Conditional Use Permit pursuant to Chapter 102, Articles 13 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS; the Applicant has proposed to the development of a controlled climate storage building and sixteen (16) single family residential units; and

WHEREAS; the Applicant must obtain seven (7) market rate residential allocations to be transferred via the Transfer of Building Rights (TBR’s), BPAS process, or any other legally established process prior to building permit issuance. THE APPROVAL OF THE REQUESTED CONDITIONAL USE PERMIT DOES NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF ANY AFFORDABLE RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT.

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

Service (LOS); and

WHEREAS; on the 17th day of July 2023, the City of Marathon Planning Commission (the “Commission”) conducted a properly advertised public hearing (the “Public Hearings”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

WHEREAS; and on the 8th day of August, 2023 the City Council (the “Council”) conducted a properly advertised public hearing (the “Public Hearings”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

WHEREAS; the City Council made a determination that the Applicant’s request for a Conditional Use Permit, subject to the terms of the LDRs and with Conditions imposed, was in Compliance with the City’s Comprehensive Plan and LDRs and further, that the approval is in the public interest, is consistent with its policy to encourage redevelopment in Marathon, and will further the health, safety and welfare of the residents of Marathon; and

WHEREAS; the purpose of the Conditional Use Permit is to allow for the integration of certain land uses and structures within the City of Marathon, based on conditions imposed by the Council. Review is based primarily on compatibility of the use with its proposed location and with surrounding land uses and on the basis of all zoning, subdivision and other ordinances applicable to the proposed location and zoning district,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THAT:

Section 1. The above recitals are true and correct and incorporated herein.

Section 2. The City Council hereby approves Development Order 2023-06, a copy of which is attached hereto as Exhibit “A”, granting a Conditional Use Permit to Marathon, LLC subject to the Conditions imposed. The Director of Planning is authorized to sign the Development Order on behalf of the City.

Section 3. This resolution shall take effect immediately upon approval by the State Department of Economic Opportunity.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 8TH DAY OF AUGUST 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:**

Steve Williams, City Attorney

**CITY OF MARATHON, FLORIDA
CONDITIONAL USE
DEVELOPMENT ORDER # 2023-06**

CONSIDERATION OF A REQUEST BY MARATHON LLC FOR A CONDITIONAL USE PERMIT, PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (“THE CODE”) ENTITLED “CONDITIONAL USE PERMITS”, AUTHORIZING THE DEVELOPMENT OF A CLIMATE CONTROLLED STORAGE FACILITY AND SIXTEEN (16) SINGLE FAMILY RESIDENTIAL UNITS CONSISTING OF FIVE (5) PARCELS LOCATED AT 775 107TH STREET OCEAN; WHICH IS LEGALLY DESCRIBED AS TOWNSHIP 66 RANGE 33 KEY VACCAS PART GOVERNMENT LOT 1 AND PART GOVERNMENT LOT 2 PART PARCEL 3 AND ADJACENT BAY BOTTOM SOUTH OF AND ADJACENT PART GOVERNMENT LOT 1, 796 106TH ST OCEAN; WHICH IS LEGALLY DESCRIBED AS SECTION 6 TOWNSHIP 66 RANGE 33 KEY VACCA PART GOVERNMENT LOT 2 PART PARCEL 3, 797 106TH STREET; WHICH IS LEGALLY DESCRIBED AS SECTION 6 TOWNSHIP 66 RANGE 33 KEY VACA PART GOVERNMENT LOT 2 PARCEL 2, 630 107TH STREET; WHICH IS LEGALLY DESCRIBED AS SECTION 6 TOWNSHIP 66 RANGE 33 KEY VACA PART GOVERNMENT LOT 1, AND VACANT LAND 107TH STREET; WHICH IS LEGALLY DESCRIBED AS SECTION 6 TOWNSHIP 66 RANGE 33 KEY VACCAS PART GOVERNMENT LOT 1, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00104260-000000, 00104430-000300, 00104430-000200, 00104240-000400 AND 00104240-000100. NEAREST MILE MARKER 53.

WHEREAS; Marathon, LLC (The “Applicant”) filed an Application on March 9, 2023 for a Conditional Use Permit pursuant to Chapter 102, Articles 13 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS; the Applicant has proposed to the development of a controlled climate storage building and sixteen (16) single family residential units; and

WHEREAS; the Applicant must obtain seven (7) market rate residential allocations to be transferred via the Transfer of Building Rights (TBR’s), BPAS process, or any other legally established process prior to building permit issuance. THE APPROVAL OF THE REQUESTED CONDITIONAL USE PERMIT DOES NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF ANY AFFORDABLE RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT.

WHEREAS; City staff reviewed the Applicant’s request for a Conditional Use Permit determining that the Applicant’s project proposal was in compliance with the City’s Comprehensive Plan and Land

Development Regulations (LDRs) and further that there was no substantial impact on the City’s Level of Service (LOS); and

WHEREAS; on the 17th day of July 2023, the City of Marathon Planning Commission (the “Commission”) conducted a properly advertised public hearing (the “Public Hearings”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

WHEREAS; and on the 8th day of August, 2023 the City Council (the “Council”) conducted a properly advertised public hearing (the “Public Hearings”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

WHEREAS; the City Council made a determination that the Applicant’s request for a Conditional Use Permit, subject to the terms of the LDRs and with Conditions imposed, was in Compliance with the City’s Comprehensive Plan and LDRs and further, that the approval is in the public interest, is consistent with its policy to encourage redevelopment in Marathon, and will further the health, safety and welfare of the residents of Marathon; and

WHEREAS; the purpose of the Conditional Use Permit is to allow for the integration of certain land uses and structures within the City of Marathon, based on conditions imposed by the Council. Review is based primarily on compatibility of the use with its proposed location and with surrounding land uses and on the basis of all zoning, subdivision and other ordinances applicable to the proposed location and zoning district,

FINDINGS OF FACT:

1. The applicant will redevelop the project site as set out in the project site plan allowing the Applicant the development of a controlled climate storage building and sixteen (16) single family residential units (See Approved Site Plan – Exhibit A” and all Plans otherwise provided and approved, or approved as revised, as part of the Applicant’s submittal):
2. In accordance with Section 102.77 of the Code, the Commission and Council considered and determined the Applicant met the following criteria:
 - a. The proposed use is consistent with the Comprehensive Plan and LDRs;
 - b. The proposed use is compatible with the existing land use pattern and future uses designated by the Comprehensive Plan;
 - c. The proposed use shall not adversely affect the health, safety, and welfare of the public; and
 - d. The proposed conditional use minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment; and
 - e. Satisfactory provisions and arrangements have been made concerning the following matters, where applicable:

1. Ingress and egress to the property and proposed structures thereon with particular reference to automotive, bicycle, and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;
2. Off-street parking and loading areas where required, with particular attention to item 1 above;
3. The noise, glare or odor effects of the conditional use on surrounding properties;
4. Refuse and service areas, with particular reference to location, screening and Items 1 and 2 above;
5. Utilities, with reference to location and availability;
6. Screening and buffering with reference to type, dimensions and character;
7. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety and compatibility with surrounding properties;
8. Required yards and other open space;
9. General compatibility with surrounding properties; and

CONDITIONS IMPOSED:

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

Conditions of Approval

1. All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
2. Additional landscape canopy and buffering be placed per site plan.
3. A sewer flow estimate from an engineer will be required to reassess any additional impact.
4. The project exceeds 1 acre of development, and as such an FDEP general permit for NPEDS will be required.
5. Per the LDR, the stormwater criteria require retention of the runoff from a 25yr-72hr storm event. However, in lieu of these criteria, the minimum requirements will be the retention of 1 ½" of runoff for all residential lots and then runoff from 4 ½ inch rainfall event for the roads and commercial lot.
6. All runoff from the site shall be routed to the proposed retention swales. A detailed grading plan shall be required for review of construction plans.
7. Any native vegetation removed must be mitigated per Section 106.10.
8. Since the project is changing use, an FDOT access permit is required.
9. A written agreement or letter must be supplied to the City stating that sewer and other utilities will be provided to 799 106th Street with no loss of service.
10. All conditions of the Fire Marshal must be met prior to permit issuance.
11. All required parking spaces must be shown on the final site plan prior to permit issuance.
12. A final lighting plan including no interior lighting to be on neighboring properties must be submitted prior to permit issuance.

13. A final landscape plan with required buffers as well as additional buffers must be submitted prior to permit issuance.
14. Dumpsters are to be screened per code.
15. A unity of title is required for the properties.
16. 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.
17. The private yard area for rooftop balcony dwelling is provided by the roof or balconies of the structure.
18. 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.
19. 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.
20. 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.
21. The Applicant must obtain and transfer seven (7) 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.
22. The Conditional Use Development Order will constitute the Certificate of Concurrence for the project. The determination will be valid for one year.
23. 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.
24. Individual storage areas shall not exceed 400 square feet each.
25. Storage of boats, recreational vehicles and similar equipment may be allowed, subject to the following standards:
26. Storage shall occur only within a designated area, approved as part of the site plan.
27. Storage areas shall not exceed 50 percent of the lot area of the site.
28. Boats shall be stored on trailers with wheels.
29. Storage areas shall be completely screened from public rights-of-way or adjacent residential zoning districts, utilizing either the buildings associated with the storage facility or by an opaque masonry wall, or equivalent approved by the Director, a minimum of six (6) feet in height.
30. Applicant must provide interior site signage to direct traffic appropriately.
31. Traffic calming measures such as a speed bump to be installed to go with directional signage.

VIOLATION OF CONDITIONS:

The applicant understands and acknowledges that it must comply with all of the terms and conditions herein, and all other applicable requirements of the City or other governmental agencies applicable to the use of the Property. In accordance with the Code, the Council may revoke this approval upon a determination that the Applicant or its successor or designee is in non-compliance with this Resolution or Code. Failure to adhere to the terms and conditions of approval contained herein is a violation of the Code and persons found violating the conditions shall be subject to the penalties prescribed therein.

CONCLUSIONS OF LAW:

Based upon the above Findings of Fact, the Council does hereby make the following Conclusions of Law:

1. The Application has been processed in accordance with the applicable provisions of the City Code, and will not be detrimental to the community as a whole; and
2. In rendering its decision, as reflected in this Resolution, the Council has:
 - (a) Accorded procedural due process;
 - (b) Observed the essential requirements of the law;
 - (c) Supported its decision by substantial competent evidence of record; and
3. The Application for a conditional use is hereby GRANTED subject to the conditions specified herein.

EFFECTIVE DATE:

This development order shall not take effect for five (5) days following the date it is filed with the City Clerk, and during that time, the conditional use approval granted herein shall be subject to appeal as provided in the City Code. An appeal shall stay the effectiveness of this development order until said appeal is resolved.

_____ Date

Brian Shea
Director of Planning

This Development Order was filed in the Office of the City Clerk of this ____ day of _____, 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, this instrument shall not take effect for forty-five (45) days following the rendition to the Florida Department of Economic Opportunity. During that forty-five days, the Florida Department of Economic Opportunity may appeal this instrument to the Florida Land and Water Adjudicatory Commission, and that such an appeal stays the effectiveness of this instrument until the appeal is resolved by agreement or order.

CERTIFICATE OF SERVICE

A true and correct copy of the above and foregoing Resolution was furnished, via U.S. certified mail, return receipt requested, addressed to Marathon LLC, 108 Old House Point Circle, Yorktown, VA, 23692, this ___ day of _____, 2023.

Diane Clavier City Clerk

EXHIBIT "A": Site Plan

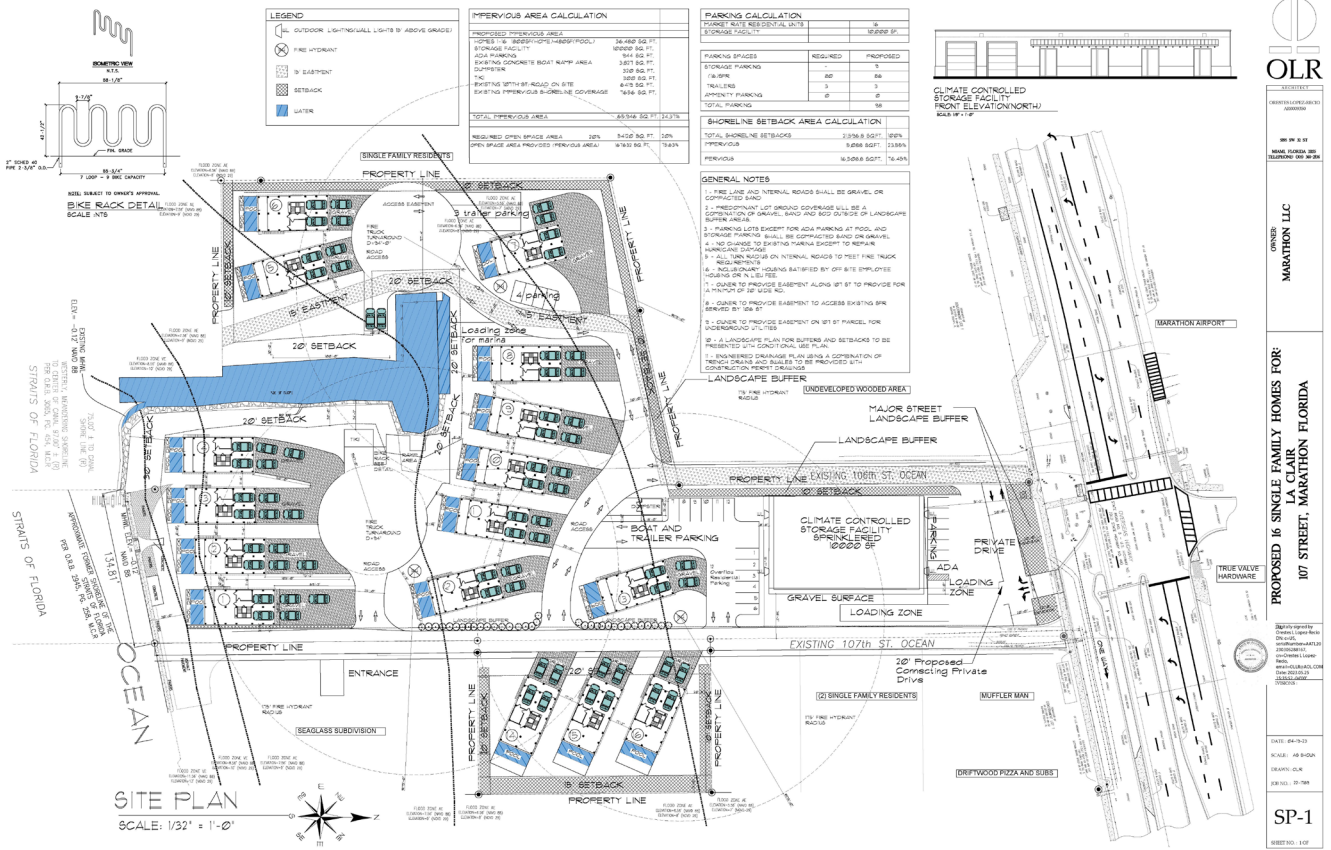


Exhibit "B": Elevation Plan

WATERPROOFING OF OBSERVATION DECK IS ON SITE BY OTHER, ALL RAILING, POST, AND PICKETS ON SITE BY OTHERS

2x6 RAKE BOARD ONLY ON OBSERVATION DECK SIDE

12

2

ROOF

8'0 1/2" WALL HEIGHT

FLOOR

CEILING

8'0 1/2" WALL HEIGHT

FLOOR

10'0"

FRONT ELEVATION

ACCESS TO GRADE BY SITE CONTRACTOR

SITE CONTRACTOR IS RESPONSIBLE FOR DESIGN AND INSTALLATION OF FOUNDATION, AS NOTED ON COVER PAGE. STAIRS AND LANDINGS TO BE PROVIDED ON SITE BY OTHERS. SUBJECT TO LOCAL APPROVAL.

BLACK LINES ARE FOR THE DESIGN AND PRICING PROCESS ONLY AND NOT TO BE USED FOR CONSTRUCTION OR PERMITTING MATTERS.

JOB NUMBER:
MF 18154 |
ABS - 2553

AFFINITY
BUILDING SYSTEMS, LLC
EXPERIENCE. INNOVATION. INTEGRITY.

REVISIONS

| NO. | DESCRIPTION | DATE | BY |
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DATE: 11/3/22 | DRAWN: RWS

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