

CITY COUNCIL AGENDA STATEMENT



Meeting Date: December 13, 2022
To: Honorable Mayor and City Council
From: Brian Shea, Planning Director
Through: George Garrett, City Manager

Agenda Item: **Resolution 2022-132**, Consideration Of A Request Coco Vista Community, LTD. 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 Sixty (60) Affordable Housing Units Located At 120 And 130 Pescayo Ave, Which Is Legally Described As Lot 7 Seaview Commons II-Ave A PB7-96 A Subdivision Being Re-Plat of Lots 5 And 6 Block 6 Coco Plum Beach PB4-166, Monroe County, Florida, Having Real Estate Number 00363551-000700. Nearest Mile Marker 54.

RECOMMENDATION:

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

APPLICANT/ OWNER: Coco Vista Community Limited

AGENT: Bart Smith, Smith/Hawks

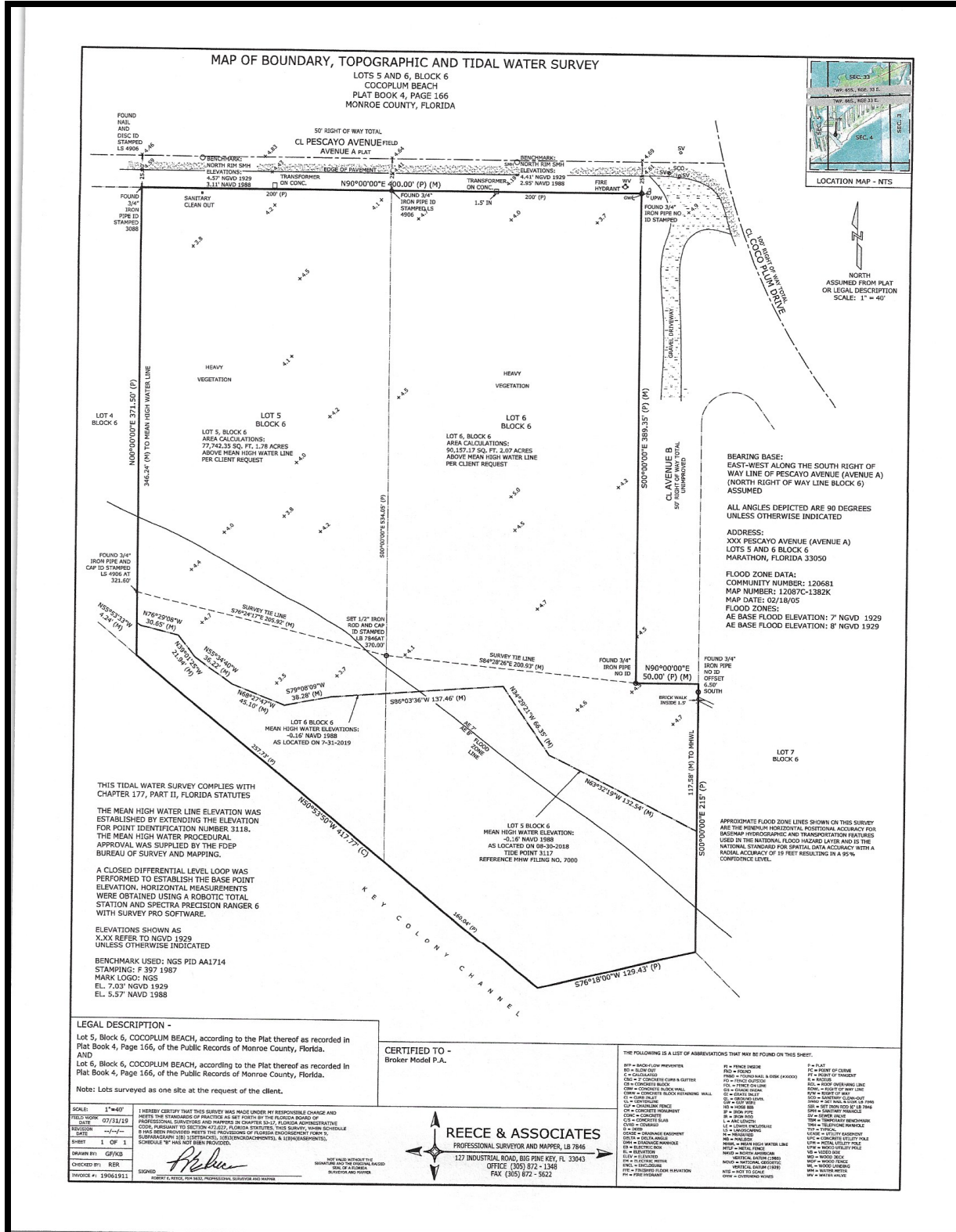
LOCATION: The project site is located on two properties on the south side of Pescayo Avenue and near the intersection with Avenue B.

REQUEST: Approval of a Conditional Use Permit for development of the subject properties (RE No 00363551-000700), providing for construction of units as follows:

Affordable Units: 60 multi-family residences in two (2) buildings with thirty (30) units in each.
Leasing Office: 1 Site Managers Office

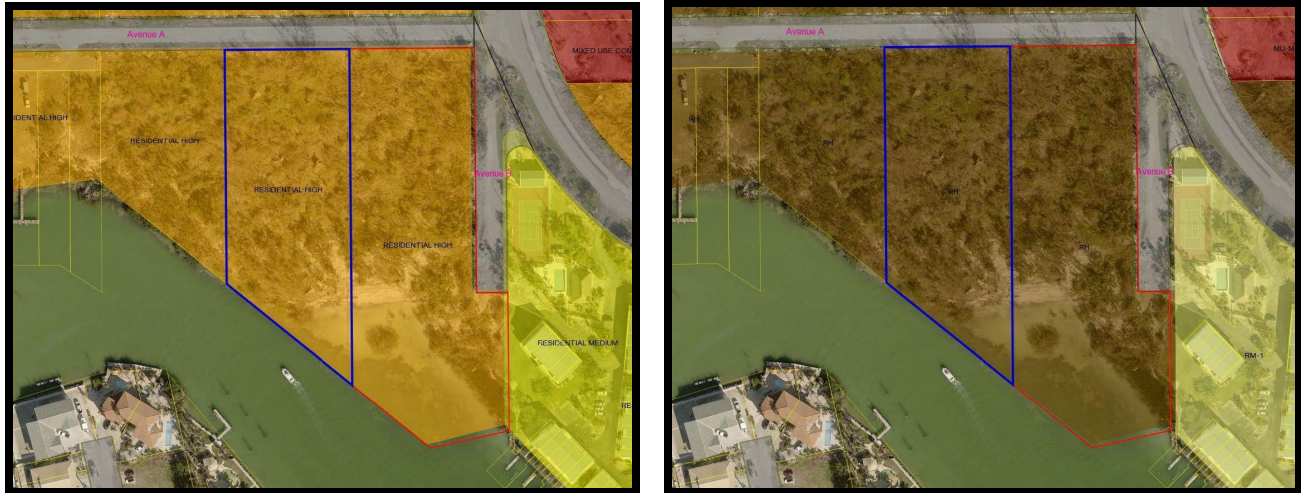
The site is currently vacant and largely scarified (cleared of exotic vegetation).

Figure 1 Project Site Survey



FUTURE LAND USE MAP DESIGNATION:
Mixed Use Commercial (MUC). See Figure 2 A & B.

**Figure 2 A & B
Future Land Use & Zoning Maps**



LOT SIZE:

Prior to the plat approval the total acreage: 5.10 acres or 222,156 square feet

RE Number	Upland Acres (Sq. Ft.)	Submerged Acres (Sq. Ft.)	TOTAL
00363550-000000	1.78 (77,537)	0.30 (13,080)	2.08 (90,617)
00363560-000000	2.07 (90,169)	0.95 (41,167)	3.02 (131,336)
TOTAL	3.85 (167,706)	1.25 (54,247)	5.10 (222,156)

The resulting lot (00363551-000700) for the affordable housing is 104,800 square feet.

SURROUNDING ZONING AND USES:

	<u>FLUM</u>	<u>Use</u>
North	RH / MU-M	Pescayo – Vacant Land / Commercial Fishing / Marine Industry
East	RH & RM	Multi-family / Condominium / Affordable (Approved)
West	RH	Vacant Lands & Pescayo Village Plat (SFRs)
South	RH	Seaview Commons single family lots

EXISTING CONDITIONS:

The project site consists of one (1) parcel. The parcel has been previously cleared of exotic vegetation. There are some remaining native hammock trees and palm trees.

PROPOSED DEVELOPMENT:

Affordable Units: 60 multi-family, two bedroom +/- affordable residential units in two (2) buildings
Leasing Office: 1 Site Managers Office

BACKGROUND:

The proposed project consists of a development of a property on Pescayo Avenue in Coco Plum Subdivision

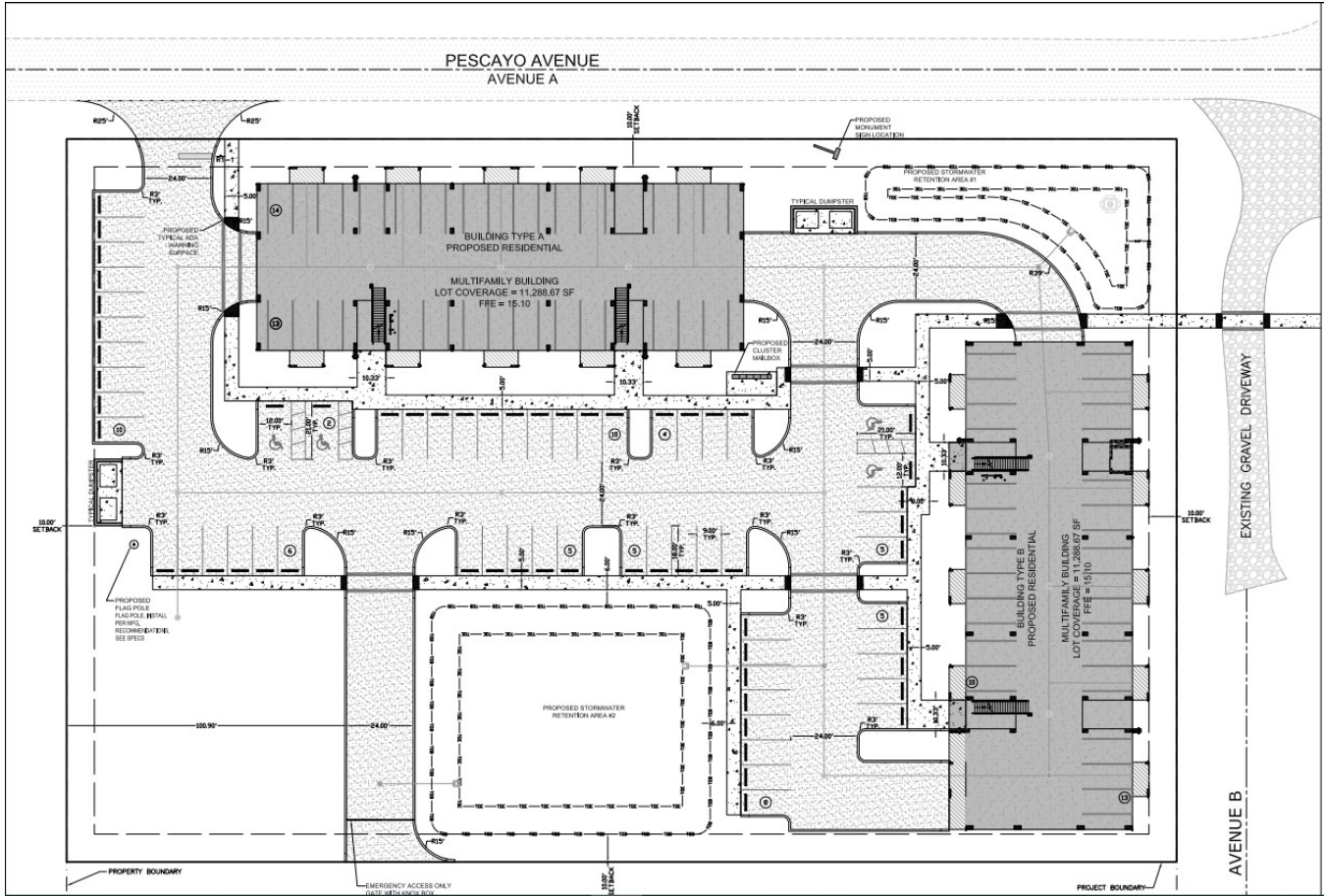
The proposed project will include a total of sixty residential units: 60 - two-bedroom apartments.

All structures will be elevated to meet minimum flood requirements and to accommodate parking under the structure. The project will provide for limited site amenities but proposes a play area for residents. The project applicant proposes in addition, a robust vegetative buffer which exceeds City Code between the building site area and Coco Plum Road.

The project is proposed to meet workforce housing needs within the City and immediately surrounding County, including the provision of housing for Essential Personnel as recognized by the Florida Legislature in its 2018-2019 Legislative Session. This project will establish a “set aside” number of units, based on demand for Essential Personnel. Essential Personnel include but are not limited to teachers, fire fighters, police, other law enforcement and emergency personnel.

See Figure 3.

**Figure 3
Proposed Development Site Plan
Pescayo Avenue**



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

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 Residential High (RH) Zoning District. Per Chapter

103, Article 2, Section 103.09 of the Land Development Regulations, the district “is intended to establish areas of high-density residential uses characterized by multi-family dwellings and mobile homes designated within the Residential High (RH) future land use category on the Future Land Use Map (FLUM).”

The proposed project consists of the creation of affordable housing and is consistent with the Residential High Zoning District. Section 103.15 establishes whether specific uses are allowed as of right, limited, accessory or conditional uses, through Table 103.15.2. That table shows that Multifamily Residential uses are allowed by Conditional Use Permit in the Residential High 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 RH district based on the types of uses proposed. Assuming that the number of market rate units is static. This site has the potential for sixty (60) affordable residential units (based on an allowed range in the Residential High FLUM of from 15 to 25 units per acre). The applicant is proposing 60 affordable workforce housing units. The calculation is based on an allowed affordable residential density within the Residential High zoning district.

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

The Applicant cites the City Comprehensive Plan in the following Goals, Objectives, and Policies as justifying the case for the approval of this project:

Chapter 1 – Future Land Use Element

Goal 1-1 Manage Growth

Objective 1-1.1 Protect Community Character

Policy 1-1.1.1 Enhance and Preserve Existing Community Character

In order to enhance and preserve the existing community character, the City shall adopt Land Development Regulations to reflect the following desired development patterns that:

- a. Protect and enhance the “small town” atmosphere;
- b. Encourage mixed-use development patterns;
- c. Protect, enhance, and acknowledge the commercial fishing industry and its historical contributions to the City;
- d. Protect and enhance the “Keys” character; and
- e. Protect, enhance, and increase the number of affordable housing units.

Goal 1-2 Adequate Public Facilities and Services

Objective 1-2.1 Ensure Levels of Service

Policy 1-2.1.2 Ensure Availability of Public Facilities and Services

The City shall not issue a development order or permit for any development unless the applicant provides narrative and graphic information demonstrating to the satisfaction of the City that the public facilities required by the subject development shall be in place concurrent with the impacts of development. Furthermore, the applicant shall assure that the facilities

operate at or above adopted level of service (LOS) standards. The applicant's narrative and graphic information shall also demonstrate that the subject development shall not reduce the levels of service for public facilities serving the development below adopted LOS standards.

1-3 Manage Growth

Objective 1-3.1 Managing Future Development and Redevelopment through Future Land Use Designations

Policy 1-3.1.4 Future Land Use Categories

The following land use categories, depicted on the *Future Land Use Map*, describe the type and extent of land use permitted in specified locations in the City. The Land Development Regulations will contain more detail about permitted land uses within the Future Land Use categories.

Residential High

The principal purpose of the Residential High land use category is to provide for high-density single-family, multi-family, and institutional residential development. The Residential High land Use category is characterized by high density compact development on lots with disturbed or scarified vegetation and areas that are appropriate for infill development and that are served by existing infrastructure. Lawfully established RV parks where a majority of the recreational vehicles have been converted into permanent structures are also allowed within the residential high land use category (See Objective 1-3.3 and 1-3.4 and the Policies therein.) The minimum lot size/density/intensity identified in Table 1-1 shall not preclude the continued use or redevelopment of existing commercial, if applicable, or residential uses on a smaller lot where such lot or parcel was platted or otherwise of record prior to the adoption of this Plan. Additionally, the application of the height and lot coverage limitations contained in the Plan and the Land Development Regulations shall not preclude the repair or reconstruction of any structure or portion thereof which is damaged by any natural disaster or other casualty as provided for in Objective 1-3.4 and Policies therein. 9J-5.006(3)(c)1 and 7

Objective 1-3.2 Regulate Density and Intensity

Policy 1-3.2.1 Allocated Density Defined

Allocated densities for the Future Land Use districts, as shown in Table 1-1, are the number of residential units allocated per gross acre of land pursuant to the Plan.

SEE TABLE 1-1 / Future Land Use Densities and Intensities*

TABLE 1-1 Future Land Use Densities and Intensities*						
Future Land Use Category	Permitted Residential Density (Units per acre)			Hotel/Motel/RV Spaces (Units per acre)	Maximum Intensity (floor area ratio)	Minimum Open Space Ratio
	Market Rate	Affordable	Licensed Mobile Home or RV Parks			
Airport (AD)	0		0	N/A	0.15 - 0.50	0.2
Conservation (C)	0.1- 0.25		0	N/A	0.05 - 0.10	0.5
Industrial (I)	0		0	N/A	0.85	0.2
Mixed Use Commercial (MUC)	2 – 6	10 – 15	10-25	5 - 25	0.15 - 0.60 ⁴	0.2
Public Facilities (PF)	0		0	3 – 25	0.15 - 0.75	0.2
Recreation (R)	0.25		0	5 – 15	0.15 - 0.50	0.2
Residential High (RH)	8	15 - 25	15-25	0	0	0.2
Residential Medium (RM)	5	10	0	0	0	0.2
Residential Low (RL)	0.5		0	0	0	0.5

Note:

1. See Objective 1-3.9 and subsequent policies.
2. The allocated and maximum net densities for submerged lands shall be 0.
For properties consisting of hammocks, pinelands, or disturbed wetlands within the Mixed-Use Commercial future land use categories, the floor area ratio shall be 0.10 and the maximum net residential density shall be 0.
Opens space shall be increased based upon the requirement for a habitat evaluation and shall conform to Table 4-1 of the Coastal and Conservation Element.
The FAR in Mixed Use developments may be increased to .75 if mitigated by the development of affordable/workforce housing is provided.

*All development and redevelopment shall comply with this Plan and the Land Development regulations.

Chapter 3 – Infrastructure Element

Goal 3-1 Provide Need Public Facilities

Objective 3-1.1 Adopt Level of Service Standards

Policy 3-1.1.1 Adopt Wastewater Management System(s) Level of Service Standards

The City hereby adopts the LOS standards for wastewater management systems as currently required by Federal and State regulations as follows:

TABLE 3-1: Florida Statutory Treatment Standards				
	Mg/L			
	BOD	TSS	TN	TP
On-Site Systems (BAT) Community Wastewater Collection and Treatment Systems	10	10	10	1
Design flows less than or equal to 100,000 gpd (BAT)	10	10	10	1
Design flows greater than 100,000 gpd (AWT)	5	5	3	1

Source: Draft Monroe County Sanitary Wastewater Master Plan, CH2MHill, March 2000

Policy 3-1.1.2 Adopt Stormwater Management Level of Service Standards

The City hereby adopts LOS standards for stormwater management as currently mandated by State agencies, as defined in the City’s adopted Stormwater Management Master Plan as follows:

- a. Post development runoff shall not exceed the pre-development runoff rate for a 25-year storm event, up to and including an event with 24-hour duration;
- b. Stormwater treatment and disposal facilities shall be designed to meet the design and performance standards established in Chapter 62-25, Section 25.025, FAC, with treatment of the runoff from the first one inch of rainfall on-site to meet the water quality standards required by Chapter 62, Section -302.500, F.A.C; and
- c. Stormwater facilities which directly discharge into ‘Outstanding Florida Waters’ (OFW) shall provide an additional treatment pursuant to Chapter 62-25.025 (9), FAC. Stormwater facilities must be designed so as to not degrade the receiving water body below the minimum conditions necessary to assure the suitability of water for the designated use of its classification as established in Chapter 62-302, F.A.C.

Policy 3-1.1.3 Adopt Potable Water Level of Service Standards

The City hereby adopts LOS standards for potable water as follows:

TABLE 3-2 Potable Water LOS	
Measure	LOS Standard
Residential LOS	66.5 gal/cap/day
Non-Residential LOS	0.35 gal/sq. ft./ day
Overall LOS	100 gal/cap/day
Equivalent Residential Unit	149 gal/day
Minimum Pressure	20 PSI at customer service
Minimum Quality	Shall be as defined by the USEPA (part 143 National Secondary Drinking Standards, 40 CFR 143, 44FR 42198)

Source: Monroe County 2010 Comprehensive Plan

Policy 3-1.1.4 Adopt Solid Waste Level of Service Standards

The City hereby adopts LOS standards for solid waste management as follows:

TABLE 3-3 Solid Waste LOS	
Measure	LOS Standard
Residential Collection Frequency	Minimum 1 time/2 weeks for Domestic refuse Minimum 1 time/2 weeks for Yard trash
Disposal Quantity	5.44 lbs./capita/day or 12.2 lbs./day/ ERU (equivalent residential unit) 6.37 pounds/acre/day (non-residential unit)

Goal 7-1 Provide Motorized and Non-motorized Transportation Systems

Objective 7-1.1 Adopt Level of Service Standards for City Roads

Policy 7-1.1.1 Adopt Level of Service Standards

For all City roads, the City hereby adopts a minimum peak hour level of service (LOS) standard of D, based on the Florida Department of Transportation (FDOT) methodology for determination of LOS, as measure by peak hour traffic volume. The City shall maintain the level of service on City roads with five percent (5%) of LOS D.

City staff concurs with the applicant that they have acknowledged the appropriate project standards and that they have been met as iterated above and that the proposed development is in compliance with the Comprehensive Plan and the Land Development Regulations. Further, the Standards have been met well within the density limits prescribed in the City of Marathon Comprehensive Plan. Therefore, the request is in compliance with the requirements of this section and the Goals, Objectives, and Policies noted.

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 Residential High Future Land Use District. Policy 1-3.1.4 of the City of Marathon Comprehensive Plan states that “the principal purpose of the Residential High land use category is to provide for high-density single-family, multi-family, and institutional residential development. The Residential High Land Use category is characterized by high density compact development on lots with disturbed or scarified

vegetation and areas that are appropriate for infill development and that are served by existing infrastructure.

The existing land use pattern in the project vicinity consists of multi-family residential development to the North on Avenue D and South across Coco Plum Road on Avenue C (west side). Further, there is a mixed residential, commercial, and marine development pattern on Coco Plum Road leading to the East.

Further to the east, on Avenue E and beyond, the development is characterized by Single Family residences. Avenue E is isolated from Avenue D by a 200-foot-wide canal.

To the West lies vacant properties and the small single-family residential subdivision of Pescayo Village.

This project is consistent with allowed densities on Pescayo Avenue, Avenue C. (west side) and Ave D. The project, as proposed, is well under the allowed densities for an affordable housing project by as much as eighteen (18) affordable residential units. Staff believes that the density of the project is consistent with the FLUM and Zoning and the general character of development in the immediate surrounding area, including the previously approved redevelopment of Seaview Commons I. The proposed project density is approximately 17 units per acre overall. By comparison, the following developments have established residential densities as follows (Seaview Commons I Redevelopment is included in the table):

Development	Acres	No of Units	Density (Units / Acre)
Coco Plum Terraces	1.90	42	22.2
Sunset Courts	0.38	8	21.1
Seaview Commons (Current)	0.40	8	20
Seaview Commons I	2.69	64	23.8
Bonefish Marina Condo	3.28	83	25.3
Bonefish Towers	2.16	75	34.7

The development of the site will result in significant new development on Pescayo Avenue, including landscaping, the further removal of invasive species, stormwater management, wastewater, and creation of an aesthetic architecture. The improvements will add new affordable housing units to the City. The proposed development will be similar in character to that of the adjacent areas to the east (Bonefish Towers, Condos, and the marina condo). Certainly, the project will contrast somewhat with the development associated with the Pescayo Village plat. That said, the proposed project will provide a mix of affordable housing and waterfront single-family residences.

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 a mixed market rate / affordable 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, as well as the requirements set forth by Florida Housing Finance Corporation (FHFC) for Low Income Housing Tax Credit Projects (LIHTC).

Stormwater will be managed on-site, and the project will connect to the City wastewater treatment system, thus alleviating any potential for water quality impacts.

Some concern has been raised that the number of approved or proposed units for the Coco Plum area may be too large for the character of the area, including some potential for significant traffic impacts. Those issues are addressed below. From the standpoint of on-site impacts, there do not appear to be any significant life-safety

impacts.

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

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

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

The existing conditions maps indicate the subject area is designated as Disturbed / Undeveloped Land. The FEMA_FWS Species Focus Area Maps indicate that the property is characterized by Exotics and mangroves at the canal edge. More recent and detailed assessments indicate that most of the property as indicated is characterized by exotics with mangroves at the waters wedge, but that there are quite a number of native trees as well. The site has been recently cleared of all exotic vegetation. The proposed development will increase the native vegetation on site as part of the landscaping plan.

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.

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.

Further improvements to water quality are expected to arise from wastewater improvements to the site when the project connects to the City's wastewater utility.

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

- Existing native canopy and understory trees should be transplanted if possible or mitigated for, if necessary, within the proposed and finally approved landscape plan.
- If the redevelopment is found to have any effect on the Eastern Indigo Snake, then the prescribed protection measures must be undertaken, and the information poster posted on site.
- The project shall be required to develop on-site stormwater controls which help to improve nearshore water quality
- The project will be required to connect to the City's wastewater utility, similarly helping to improve nearshore

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 based on

the addition of sixty-six (66) residences to the area.

The traffic study determined that a level 2 traffic study was required based on the expected trip generation for the project. The study finds that the proposed increase in units will not have a significant adverse impact on the operating characteristics of either Pescayo Avenue or Coco Plum Drive, nor will it inhibit the safe flow of traffic traveling through the City of Marathon. Below are the calculations used to determine trip generation as established through the ITE Trip Generation Manual. The largest portion of all trips will leave Pescayo Avenue or Avenue B traveling toward U.S. 1 and then return to those streets. Very few trips will be generated to and from Coco Plum Road traveling east.

Ingress and egress to the properties is currently proposed to be from Pescayo Avenue and Avenue B. Visibility in either direction from Pescayo to Coco Plum Drive is reasonable. With speeds limited to 30 miles per hour on Coco Plum Drive, staff believes that ingress and egress from Pescayo Avenue can be accomplished safely. The addition of caution signs for the curve at Coco Plum Drive is probably warranted.

Trip Generation
 Vehicular trip ends generated by the proposed project were calculated by OTISS software based on methodology provided by Trip Generation Manual of the Institute of Transportation engineers (10th edition, 2018).

Proposed OTISS Input – Average Vehicle Trips									
ITE Land Use Code	Description	Variable Input	Weekday	AM Total	AM Entry Trips	AM Exit Trips	PM Total	PM Entry Trips	PM Exit Trips
220	Multifamily Housing (Low-Rise)	60 Dwelling Units	412	30	7	23	38	24	14
210	Single Family Detached Housing	6 Dwelling Units	78	9	2	7	7	4	3

Print outs of the trip generation by OTISS for this use are attached.

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

- Caution signs during left or right turns at the Coco Plum Drive intersection with Pescayo Avenue and Avenue B.
- As part of the permit application, all conditions of the Fire Marshal regarding ingress and egress must be met prior to permit issuance. In addition, all fire hydrants must be in place prior to any of the proposed buildings “going vertical.”

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 parking spaces to be located primarily under the townhome structures. The applicant proposes approximately 120 off- street parking spaces for tenants under the proposed apartment buildings (2 spaces per tenant) and the proposed addition of six (6) market rate units on the water amounting to twelve (12). In addition, the Applicant has proposed visitor parking and adequate ADA parking. All tenant parking will reside under each residential building.

Section 107.52 includes a requirement that one handicapped space be provided for every 25 spaces required. For 120 required spaces, 5 handicapped spaces are required. The additional ADA spaces must be designated on the final site plan. 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 bike racks must be shown on the permit application site plan.

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

- Sufficient parking for two spaces per unit and additional visitor parking.
- City approval is required for ADA compliant parking spaces prior to Building Permit Approval.
- City approval is required for bike racks prior to Building Permit Approval.

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

The proposed project consists of development of a residential use on an existing site that is mostly vacant. The proposed use does not have any adverse effect through noise, glare, or odors; therefore, the proposed density increase should have a de minimis impact.

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

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

Section 107.39 requires that all dumpsters and recycling bins be fully enclosed and screened. The site plan indicates that the dumpsters will be 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 through cooperation with the Utilities Department. This project will constitute a minor expansion, resulting in a de minimis impact.
- 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 was completed to analyze the impact on transportation facilities.
- Educational Facilities: This redevelopment will have a de minimis impact on educational facilities since existing uses are being replaced in kind.

At this juncture, all necessary initial letters of coordination have been received.

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

- City approval is required for the stormwater management system prior to Building Permit Approval.
- Applicant must obtain all outside agency approvals, this includes but is not limited to SFWMD, FDOT, ACOE, and DEP.

- City approval of the connection to the City Wastewater Utility will be required.
- Additionally, if the six market rate sites are anticipated for potential platting, that may be accomplished at a future date.
- The Conditional Use Development Order will constitute the Certificate of Concurrence 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 RH and is bordered to the West by properties zoned Residential High (RH) and properties to the north zoned RH as well. The zoning across Coco Plum to the east is Residential Medium (RM).

Section 107.71 A. requires that all multifamily residential developments provide Type 1 Streetscape buffer along the entire street frontage. The project is adjacent to Coco Plum Road and Avenue D. The final landscape plan must show compliance with the buffer standards. Current site plan graphics exceed the required standard.

Table 103.15.2 outlines setback requirements in the RH district as follow: front yard 20 feet'; side yards 10 feet; and rear setbacks have a 20' setback from the property line, or Mean High Water Line, or landward extent of the mangrove root system. The Applicant has complied with all setback standards.

Setback	Required	Required Landscape	Proposed	Compliant
Front	10	10	>20	Yes
Side	5	10	>15	Yes
Rear	10	NA	>15	Yes

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

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

- A Final Landscape Plan must be submitted showing the proper treatments and buffers, including the appropriate treatment types and trees.
- A Final Site Plan must be submitted showing the buildings meeting the required setbacks, parking locations, and access drives.

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.

8. Required yards and other open space.

Section 106.16 established required open space for the project. The site is characterized by exotics and some native hammock species; therefore, a twenty percent open space requirement applies. According to calculations provided by the applicant far exceeds the open space requirement.

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

9. General compatibility with surrounding properties; and

The project is the development of affordable housing in an area of the City which is relatively intense in residential and light industrial/marine uses. A development of new residential units is expected to be fully compatible with the surrounding uses. The proposed project represents improvement to the current state of prior development and is expected to increase compatibility with surrounding properties.

Section 107.40 restricts the height of buildings to 42' as measured from the crown of the roadway or unimproved grade. The site plans show that buildings are below 42'.

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

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

Section 104.48 Residential Dwelling Units contains special requirements. Additionally, the project must meet all criteria of Section 104.03 pertaining to affordable housing. These conditions must be met to receive FHFC funds.

The following criteria are applicable to this proposed development from 104.48:

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

The following criteria are applicable to this proposed development from 104.03:

- Dwelling units shall contain less than or equal to 1,800 square feet of habitable space. Occupancy of affordable housing units is limited to those meeting the following income requirements:
- Very-low-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 50 percent of the median adjusted gross annual income for households within the county;
- Low-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 80 percent of the median adjusted gross annual income for households within the county;
- Median-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 100 percent of the median adjusted gross annual income for households within the county;

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

The proposed development meets all applicable criteria set forth in this section. Therefore, the request is ***in compliance*** with the requirements of these sections.

With regard to workforce and affordable housing, Chapter 2 – Housing Element, addresses the absolute need for workforce and affordable housing within the City and County in general. The proposed project seeks to support those Goals and Objectives as noted in Goals and Objectives highlighted below:

GOAL 2-1 CONSERVE HOUSING STOCK

To achieve a balanced and affordable range of housing stock; to encourage the diversification and distribution of the housing stock; to eliminate substandard structures; and to conserve good quality housing stock. 9J-5.010(3)(a)

Objective 2-1.1 Develop a Housing Program

Within one year of the effective date of the Plan, the City provide the framework for a housing program that encourages the creation and preservation of affordable housing for all current and anticipated future residents of the City. 9J-5.010(3)(b)1

Objective 2-1.2 Provide Information

The City shall provide for exchange of information related to job training, job creation and economic solutions in an effort to improve access to affordable housing. 9J-5.010(3)(c)8

Objective 2-1.3 Improve Housing Conditions

The City shall continue to eliminate substandard housing and blighted areas and shall continue to improve structural and aesthetic housing conditions. 9J-5.010(3)(b)2

Objective 2-1.5 Ensure Adequate Housing Sites

Through the Land Development Regulations, the City shall ensure distribution of adequate housing sites for all residents of Marathon, including very low, low, moderate, and market income housing through the implementation of the following policies. 9J-5.010(3)(b)3

It has been suggested that the City of Marathon has no further need for workforce or affordable housing units. In a corollary to that suggestion, it has been suggested that we no longer need workforce / affordable housing units in the Extremely Low-, Very Low- or Low-income categories.

First, staff wants to make clear what those HUD limits are for 2022.

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

The City of Marathon solicited an affordable housing study of Florida International University in 2015. The resulting report (Workforce/Affordable Housing Assessment & Action Study) came to several very strong conclusions about the need for workforce housing and the specific gaps that the city has to workforce housing.

At the time there were gaps for all HUD Income Limits categories to home ownership (See Table 4.3 excerpted from the Report). Across all income categories there was a gap of 1,618 units – Demand VS Surplus market rate housing. Presumably, the “Demand” was satisfied through rental of available housing at that juncture. In three HUD Income categories (Extremely Low-, Very Low-, and almost, Low-) there was a gap of 321 units for rent – Demand VS Availability. (See Table 4.4 excerpted from the Report).

Table 4.3: City of Marathon Affordable Housing Supply/Demand Analysis: Owner Housing

	HH Income Category	Total Households (Demand)	Home Purchase at Affordable Price Levels		Number of Owner Units Within Affordable Price Range (Supply)	Surplus/Gap within Affordable Price Range
			0% Median	30% Median		
Extremely Low Income	0-30% Median	398	0% Median	30% Median	0-30% Median 116 (5.8%)	(282 units)
	\$0-\$14,122		\$0	\$35,305		
Very Low Income	31-50% Median	362	31% Median	50% Median	31-50% Median 214 (10.7%)	(148 units)
	\$14,592-\$23,537		\$36,480	\$58,843		
Low Income	51-80% Median	550	51% Median	80% Median	51-80% Median 68 (3.4%)	(482 units)
	\$24,007-\$37,658		\$60,018	\$94,145		
Median Income	81-100% Median	295	81% Median	100% Median	81-100% Median 51(2.5%)	(244 units)
	\$38,129-\$47,073		\$95,323	\$117,683		
Moderate Income	101-120% Median	251	101% Median	120% Median	101-120% Median 90 (4.5%)	(161 units)
	\$47,544-\$56,488		\$118,860	\$141,220		
Middle Income	121-160% Median	447	121% Median	160% Median	121-160% Median 146 (7.3%)	(301 units)
	\$56,958-\$75,317		\$142,395	\$188,293		

Source: 2009-2013 ACS; table and calculations by FIU Metropolitan Center.

Obviously, a great deal has happened since the date of the FIU Report – notably the impacts of Hurricane Irma (Sept. 2017) and COVID 19 (February 2020 to the present). On the one hand, it has been said that many people have left town – therefore housing demand may be lower. On the other hand, four (4) hotels have opened which carry a high staffing demand. And Hurricane Irma destroyed an estimated 394 homes which were assessed just post storm. Since that time, the City has been able to better catalogue the replacement of these homes through the building permit process. At this juncture, the City has seen the replacement of 507 residential units in single and multi-family settings. The replacement units at \$200 to \$300 per square foot typically will not be any more affordable or available to the City’s workforce.

So, staff believes that there is still a significant need for workforce housing, regardless of the number of units and projects that have some before the City recently and are either built or in various stages of construction. The largest demand is in the lower income categories, but the demand stretches across the range of HUD categories.

Table 4.3: City of Marathon Affordable Housing Supply/Demand Analysis: Owner Housing

	HH Income Category	Total Households (Demand)	Home Purchase at Affordable Price Levels		Number of Owner Units Within Affordable Price Range (Supply)	Surplus/Gap within Affordable Price Range
			0% Median	30% Median		
Extremely Low Income	0-30% Median	398	0% Median	30% Median	0-30% Median	(282 units)
	\$0-\$14,122		\$0	\$35,305	116 (5.8%)	
Very Low Income	31-50% Median	362	31% Median	50% Median	31-50% Median	(148 units)
	\$14,592-\$23,537		\$36,480	\$58,843	214 (10.7%)	
Low Income	51-80% Median	550	51% Median	80% Median	51-80% Median	(482 units)
	\$24,007-\$37,658		\$60,018	\$94,145	68 (3.4%)	
Median Income	81-100% Median	295	81% Median	100% Median	81-100% Median	(244 units)
	\$38,129-\$47,073		\$95,323	\$117,683	51(2.5%)	
Moderate Income	101-120% Median	251	101% Median	120% Median	101-120% Median	(161 units)
	\$47,544-\$56,488		\$118,860	\$141,220	90 (4.5%)	
Middle Income	121-160% Median	447	121% Median	160% Median	121-160% Median	(301 units)
	\$56,958-\$75,317		\$142,395	\$188,293	146 (7.3%)	

Source: 2009-2013 ACS; table and calculations by FIU Metropolitan Center.

Table 4.4: City of Marathon Affordable Housing Supply/Demand Analysis: Renter Housing

	HH Income Category	Total Renter Households (Demand)	Affordable Rent Levels		Number of Renter Units Within Affordable Price Range (Supply)	Surplus/Gap within Affordable Price Range
			0% Median	30% Median		
Extremely Low Income	0-30% Median	248	0% Median	30% Median	0-30% Median	(222 units)
	\$0-\$14,122		\$0	\$353	26 (2.1%)	
Very Low Income	31-50% Median	189	31% Median	50% Median	31-50% Median	(97 units)
	\$14,592-\$23,537		\$365	\$588	92 (7.6%)	
Low Income	51-80% Median	271	51% Median	80% Median	51-80% Median	56 units
	\$24,007-\$37,658		\$600	\$941	327 (27.2%)	
Median Income	81-100% Median	97	81% Median	100% Median	81-100% Median	163 units
	\$38,129-\$47,073		\$953	\$1,177	260 (21.6%)	
Moderate Income	101-120% Median	79	101% Median	120% Median	101-120% Median	103 units
	\$47,544-\$56,488		\$1,189	\$1,412	182 (15.1%)	
Middle Income	121-160% Median	158	121% Median	160% Median	121-160% Median	(7 units)
	\$56,958-\$75,317		\$1,424	\$1,883	151 (12.6%)	

Source: 2009-2013 ACS; table and calculations by FIU Metropolitan Center.

Based on this review of the available information, City staff indicates that the project meets the obligation to help establish necessary workforce and affordable housing within the city. Therefore, with the conditions noted

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

CONCLUSION:

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

The proposed development consists of the development of sixty (60) new workforce units in a residentially zoned neighborhood, zoned Residential High (RH). As such the development, including the overall upgrading and improvement of the site, furthers the policies for development in the City and is consistent with the Comprehensive Plan and Land Development Regulations. The project is compatible with surrounding uses, and is not expected to create a nuisance, traffic congestion or threat to public, health, safety, or welfare.

RECOMMENDATION:

Planning staff recommends that the Planning Commission forward a recommendation of conditional approval of the Residential Development to the City Council. Planning Commission recommends approval (2-1). The proposed conditions of approval are listed below.

Conditions of Approval

1. Ingress and egress shall only occur from Pescayo Avenue and Avenue B.
2. As part of the permit application, all conditions of the Fire Marshal must be met prior to permit issuance, and hydrants must be operational prior to buildings going vertical.
3. City approval is required for ADA compliant parking spaces prior to Building Permit Approval.
4. Bike racks must be shown on the final site plan and approved prior to Building Permit Approval.
5. City approval is required for the stormwater management system prior to Building Permit Approval.
6. Applicant must obtain all outside agency approvals prior permit issuance and prior to project initiation.
7. City approval of the final engineering and connection to the City Wastewater Utility will be required.
8. A Final Landscape Plan must be submitted showing the proper treatments and buffers, including the appropriate treatment types and trees. Since additional buffering was required and agreed to by the applicant, this additional buffering must also be reviewed and approved by the City prior to final project approval.
9. A Transplantation / Mitigation plan must be approved for any native trees destroyed as part of proposed construction. This Plan must be provided and approved prior to the initiation of site development.
10. If the redevelopment is found to have any effect on the Eastern Indigo Snake, then the prescribed protection measures must be undertaken, and the information poster posted on site.
11. A Final Site Plan must be submitted showing the buildings meeting the required setbacks, parking locations, and access drives.
12. Sufficient parking for two spaces per unit and additional visitor parking.
13. City approval is required for ADA compliant parking spaces prior to Building Permit Approval.
14. City approval is required for bike racks prior to Building Permit Approval.
15. Caution signs during left or right turns at the Coco Plum Drive intersection with Pescayo Avenue and Avenue B.
16. All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
17. Applicant must obtain all outside agency approvals, this includes but is not limited to SFWMD, FDOT, ACOE, and DEP.
18. Affordable Housing Deed Restrictions must be filed prior to building permit issuance. Said deed restrictions

shall be provided in a form acceptable to the City and shall be filed with the Monroe County Clerk of Court and shall run with the land for a period of ninety-nine (99) years.

19. Dwelling units shall contain less than or equal to 1,800 square feet of habitable space. Occupancy of affordable housing units is limited to those meeting the following income requirements:
20. Very-low-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 50 percent of the median adjusted gross annual income for households within the county;
21. Low-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 80 percent of the median adjusted gross annual income for households within the county;
22. Median-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 100 percent of the median adjusted gross annual income for households within the county;
23. Moderate-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 120 percent of the median adjusted gross annual income for households within the county;
24. Middle-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 160 percent of the median adjusted gross annual income within the county;
25. For the purposes of this section, "adjusted gross income" means all wages, income from assets, regular cash or non-cash contributions or gifts from persons outside the household (that will be used to offset the purchase price of the dwelling unit), and such other resources and benefits as may be determined to be income by the United States Department of Housing and Urban Development, adjusted for family size, less deductions allowable under Section 62 of the Internal Revenue Code. Income from assets is calculated at either the actual income from all assets or two (2%) percent of the value of all assets, whichever is greater. If total assets are less than \$5,000.00, no income is considered. Asset inclusions: Cash accounts (checking, savings, IRA, Money Market...), investments, retirement accounts, boats, RV's. Income exclusions: Personal property, automobiles;
26. The maximum sales price shall not exceed 300 percent of that amount which represents 160 percent of the median adjusted gross annual income for households within the county;
27. The monthly rent shall not exceed 30 percent of that amount which represents the income bracket of the household, i.e., very low, low, median, moderate or middle, divided by 12. In no case shall the monthly rent exceed 160 percent of the median adjusted gross annual income for households within the county, divided by 12; and
28. If the dwelling units utilize affordable housing BPAS allocations, the requirements of Subsection 107.06(c) shall also apply.
29. Annual income qualification, lease, or employment verification, as applicable, by the City, or its designee, shall be limited to rental and employee housing dwelling units. Income verification for owner occupied dwellings shall be performed and approved by the City or its designee prior to the sales closing and occupancy of the dwelling unit.
30. The Applicant must obtain sixty (60) affordable residential allocations to be transferred via the Transfer of Building Rights (TBR's), BPAS process, or any other legally established process, including statutory, prior to building permit issuance. **THE APPROVAL OF THE REQUESTED CONDITIONAL USE PERMIT DO 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.**
31. The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.

**CITY OF MARATHON, FLORIDA
RESOLUTION 2022-132**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING A REQUEST COCO VISTA COMMUNITY, LTD. 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 SIXTY (60) AFFORDABLE HOUSING UNITS LOCATED AT 120 AND 130 PESCAYO AVE, WHICH IS LEGALLY DESCRIBED AS LOT 7 SEAVIEW COMMONS II-AVE A PB7-96 A SUBDIVISION BEING RE-PLAT OF LOTS 5 AND 6 BLOCK 6 COCO PLUM BEACH PB4-166, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00363551-000700. NEAREST MILE MARKER 54.

WHEREAS; COCO VISTA COMMUNITY, LTD. (The “Applicant”) filed an Application on August 31, 2022 for a Conditional Use Permit pursuant to Chapter 102, Articles 13 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS; previously Resolution 2020-36 was approved by City Council authorizing the conditional use for 60 units; and

WHEREAS; the Applicant has proposed the development of 64 affordable housing units; and

WHEREAS; the Applicant must obtain sixty (60) affordable residential allocations to be transferred via the Transfer of Building Rights (TBR’s), BPAS process, or any other legally established process, including statutory, prior to building permit issuance. THE APPROVAL OF THE REQUESTED CONDITIONAL USE PERMIT DO 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.

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

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

WHEREAS; and on the 15th day of November, 2022 the City Council (the “Council”) conducted a

properly advertised public hearing (the “Public Hearings”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

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

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

WHEREAS; § 166.04151(1), Fla. Stat. (2022) provides “[n]otwithstanding any other provision of law, a municipality may adopt and maintain in effect any law, ordinance, rule, or other measure that is adopted for the purpose of increasing the supply of affordable housing using land use mechanisms such as inclusionary housing or linkage fee ordinances.”

WHEREAS; § 166.04151(5), Fla. Stat. (2022) states that § 166.04151(2), Fla. Stat. (2022) does not apply in an area of critical state concern, indicating by lack of inclusion that § 166.04151(1), Fla. Stat. (2022) does apply in an area of critical state concern.

WHEREAS; the City Council has the authority to approve this Resolution increasing the supply of affordable housing in the City of Marathon.

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

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

Section 2. The City Council hereby approves Development Order 2022-10, a copy of which is attached hereto as Exhibit “A”, granting a Conditional Use Permit to COCO VISTA COMMUNITY, LTD. 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 13TH DAY OF DECEMBER 2022.**

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 T. Williams, City Attorney



**CITY OF MARATHON, FLORIDA
CONDITIONAL USE
DEVELOPMENT ORDER # 2022-10**

A DEVELOPMENT ORDER OF CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING A REQUEST COCO VISTA COMMUNITY, LTD. 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 SIXTY (60) AFFORDABLE HOUSING UNITS LOCATED AT 120 AND 130 PESCAYO AVE, WHICH IS LEGALLY DESCRIBED AS LOT 7 SEAVIEW COMMONS II-AVE A PB7-96 A SUBDIVISION BEING RE-PLAT OF LOTS 5 AND 6 BLOCK 6 COCO PLUM BEACH PB4-166, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00363551-000700. NEAREST MILE MARKER 54.

WHEREAS; COCO VISTA COMMUNITY, LTD. AND VC SEAVIEW, LTD. (The “Applicant”) filed an Application on August 31, 2022 for a Conditional Use Permit pursuant to Chapter 102, Articles 13 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS; previously Resolution 2018-72 was approved by City Council authorizing the conditional use for 64 units; and

WHEREAS; the Applicant has proposed the development of 64 affordable housing units; and

WHEREAS; the Applicant must obtain sixty (60) affordable residential allocations to be transferred via the Transfer of Building Rights (TBR’s), BPAS process, or any other legally established process, including statutory, prior to building permit issuance. THE APPROVAL OF THE REQUESTED CONDITIONAL USE PERMIT DO 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.

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

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

WHEREAS; and on the 15th day of November, 2022 the City Council (the “Council”) conducted a properly advertised public hearing (the “Public Hearings”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

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

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

WHEREAS; § 166.04151(1), Fla. Stat. (2022) provides “[n]otwithstanding any other provision of law, a municipality may adopt and maintain in effect any law, ordinance, rule, or other measure that is adopted for the purpose of increasing the supply of affordable housing using land use mechanisms such as inclusionary housing or linkage fee ordinances.”

WHEREAS; § 166.04151(5), Fla. Stat. (2022) states that § 166.04151(2), Fla. Stat. (2022) does not apply in an area of critical state concern, indicating by lack of inclusion that § 166.04151(1), Fla. Stat. (2022) does apply in an area of critical state concern.

WHEREAS; the City Council has the authority to approve this Resolution increasing the supply of affordable housing in the City of Marathon.

FINDINGS OF FACT:

1. The applicant will redevelop the project site as set out in the project site plan allowing the Applicant to construct sixty (60) affordable residential units, to include an office and common areas (See Approved Site Plan – Exhibit A” and all Plans otherwise provided and approved, or approved as revised, as part of the Applicant’s submittal):
2. In accordance with Section 102.77 of the Code, the Commission and Council considered and determined the Applicant met the following criteria:
 - a. The proposed use is consistent with the Comprehensive Plan and LDRs;
 - b. The proposed use is compatible with the existing land use pattern and future uses designated by the Comprehensive Plan;
 - c. The proposed use shall not adversely affect the health, safety, and welfare of the public; and
 - d. The proposed conditional use minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment; and
 - e. Satisfactory provisions and arrangements have been made concerning the following matters, where applicable:

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

CONDITIONS IMPOSED:

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

Conditions of Approval

- 1) Ingress and egress shall only occur from Pescayo Avenue and Avenue B.
- 2) As part of the permit application, all conditions of the Fire Marshal must be met prior to permit issuance, and hydrants must be operational prior to buildings going vertical.
- 3) City approval is required for ADA compliant parking spaces prior to Building Permit Approval.
- 4) Bike racks must be shown on the final site plan and approved prior to Building Permit Approval.
- 5) City approval is required for the stormwater management system prior to Building Permit Approval.
- 6) Applicant must obtain all outside agency approvals prior permit issuance and prior to project initiation.
- 7) City approval of the final engineering and connection to the City Wastewater Utility will be required.
- 8) A Final Landscape Plan must be submitted showing the proper treatments and buffers, including the appropriate treatment types and trees. Since additional buffering was required and agreed to by the applicant, this additional buffering must also be reviewed and approved by the City prior to final project approval.
- 9) A Transplantation / Mitigation plan must be approved for any native trees destroyed as part of proposed construction. This Plan must be provided and approved prior to the initiation of site development.
- 10) If the redevelopment is found to have any effect on the Eastern Indigo Snake, then the prescribed protection measures must be undertaken, and the information poster posted on site.
- 11) A Final Site Plan must be submitted showing the buildings meeting the required setbacks, parking

locations, and access drives.

- 12) Sufficient parking for two spaces per unit and additional visitor parking.
- 13) City approval is required for ADA compliant parking spaces prior to Building Permit Approval.
- 14) City approval is required for bike racks prior to Building Permit Approval.
- 15) Caution signs during left or right turns at the Coco Plum Drive intersection with Pescayo Avenue and Avenue B.
- 16) All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
- 17) Applicant must obtain all outside agency approvals, this includes but is not limited to SFWMD, FDOT, ACOE, and DEP.
- 18) Affordable Housing Deed Restrictions must be filed prior to building permit issuance. Said deed restrictions shall be provided in a form acceptable to the City and shall be filed with the Monroe County Clerk of Court and shall run with the land for a period of ninety-nine (99) years.
- 19) Dwelling units shall contain less than or equal to 1,800 square feet of habitable space. Occupancy of affordable housing units is limited to those meeting the following income requirements:
- 20) Very-low-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 50 percent of the median adjusted gross annual income for households within the county;
- 21) Low-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 80 percent of the median adjusted gross annual income for households within the county;
- 22) Median-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 100 percent of the median adjusted gross annual income for households within the county;
- 23) Moderate-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 120 percent of the median adjusted gross annual income for households within the county;
- 24) Middle-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 160 percent of the median adjusted gross annual income within the county;
- 25) For the purposes of this section, "adjusted gross income" means all wages, income from assets, regular cash or non-cash contributions or gifts from persons outside the household (that will be used to offset the purchase price of the dwelling unit), and such other resources and benefits as may be determined to be income by the United States Department of Housing and Urban Development, adjusted for family size, less deductions allowable under Section 62 of the Internal Revenue Code. Income from assets is calculated at either the actual income from all assets or two (2%) percent of the value of all assets, whichever is greater. If total assets are less than \$5,000.00, no income is considered. Asset inclusions: Cash accounts (checking, savings, IRA, Money Market...), investments, retirement accounts, boats, RV's. Income exclusions: Personal property, automobiles;
- 26) The maximum sales price shall not exceed 300 percent of that amount which represents 160 percent of the median adjusted gross annual income for households within the county;
- 27) The monthly rent shall not exceed 30 percent of that amount which represents the income bracket of the household, i.e., very low, low, median, moderate or middle, divided by 12. In no case shall the monthly rent exceed 160 percent of the median adjusted gross annual income for households within the county, divided by 12; and
- 28) If the dwelling units utilize affordable housing BPAS allocations, the requirements of Subsection 107.06(c) shall also apply.
- 29) Annual income qualification, lease, or employment verification, as applicable, by the City, or its designee, shall be limited to rental and employee housing dwelling units. Income verification for

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

- 30) The Applicant must obtain sixty (60) affordable residential allocations to be transferred via the Transfer of Building Rights (TBR's), BPAS process, or any other legally established process, including statutory, prior to building permit issuance. THE APPROVAL OF THE REQUESTED CONDITIONAL USE PERMIT DO 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.
- 31) The Conditional Use Development Order will constitute the Certificate of Concurrence for the project. The determination will be valid for one year.

VIOLATION OF CONDITIONS:

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

CONCLUSIONS OF LAW:

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

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

EFFECTIVE DATE:

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

Date

Brian Shea
Director of Planning

This Development Order was filed in the Office of the City Clerk of this ____ day of _____, 2022.

Diane Clavier, City Clerk

NOTICE

Under the authority of Section 102.79(c) of the City of Marathon Land Development Regulations, this development order shall become null and void with no further notice required by the City, unless a business license has been issued for the use or a complete building permit application for site preparation and building construction with revised plans as required herein is submitted to the City of Marathon Building Official within one (1) year from the date of conditional use approval, or the date when the Department of Economic Opportunity waives its appeal and all required certificates of occupancy are procured with three (3) years of the date of this development order is approved by the City Council.

In addition, this instrument shall not take effect for forty-five (45) days following the rendition to the Florida Department of Economic Opportunity. During that forty-five days, the Florida Department of Economic Opportunity may appeal this instrument to the Florida Land and Water Adjudicatory Commission, and that such an appeal stays the effectiveness of this instrument until the appeal is resolved by agreement or order.

CERTIFICATE OF SERVICE

A true and correct copy of the above and foregoing Resolution was furnished, via U.S. certified mail, return receipt requested, addressed to Smith Hawks, PL (Bart Smith/AJ Davila), 138 Simonton Street, Key West, FL 33040, this ____ day of _____, 2022.

Diane Clavier City Clerk

EXHIBIT "A"

