

CITY COUNCIL AGENDA STATEMENT



Meeting Date: August 8th, 2023

To: Honorable Mayor and City Council

From: Brian Shea, Planning Director

Through: George Garrett, City Manager

Agenda Items: **Ordinance 2023-16**, Amending The Future Land Use Map (FLUM) From Residential Medium (RM) To Mixed Use Commercial (MU-C) For Property Described As Lots 1 Through 4 Of Block 6 And Lot 4 Of The Amended Plat Of Gulfstream Shores Of Marathon Plat #2 As Recorded In Plat Book 3-142, Having Real Estate Numbers 00100890-000000 And 00349440-000000; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity; And Providing For An Effective Date Upon The Approval Of This Ordinance By The State Department Of Economic Opportunity.

-AND-

Ordinance 2023-17, Amending The Zoning From Residential Medium (RM) To Mixed Use (MU) For Property Described As Lots 1 Through 4 Of Block 6 And Lot 4 Of The Amended Plat Of Gulfstream Shores Of Marathon Plat #2 As Recorded In Plat Book 3-142, Having Real Estate Numbers 00100890-000000 And 00349440-000000; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity; And Providing For An Effective Date Upon The Approval Of This Ordinance By The State Department Of Economic Opportunity.

APPLICANT: **City of Marathon**

LOCATION: The subject properties are located at 8877 Overseas Highway and 277 89th Street, Having Real Estate Numbers 00100890-000000 & 00349440-000000. Nearest Mile Marker 52.

ADDRESS: 8877 Overseas Highway and 277 89th Street

REQUEST: Amend The Future Land Use Map (FLUM) From Residential Medium (RM) To Mixed Use Commercial (MU-C)

- AND-

Amend the Zoning Map for the subject properties from Residential Medium (RM) to Parks and Mixed Use (MU)

LOT AREA: The aggregated size of the parcels is approximately 1.65 acres (72,068 sq ft.)

LOCATION MAP

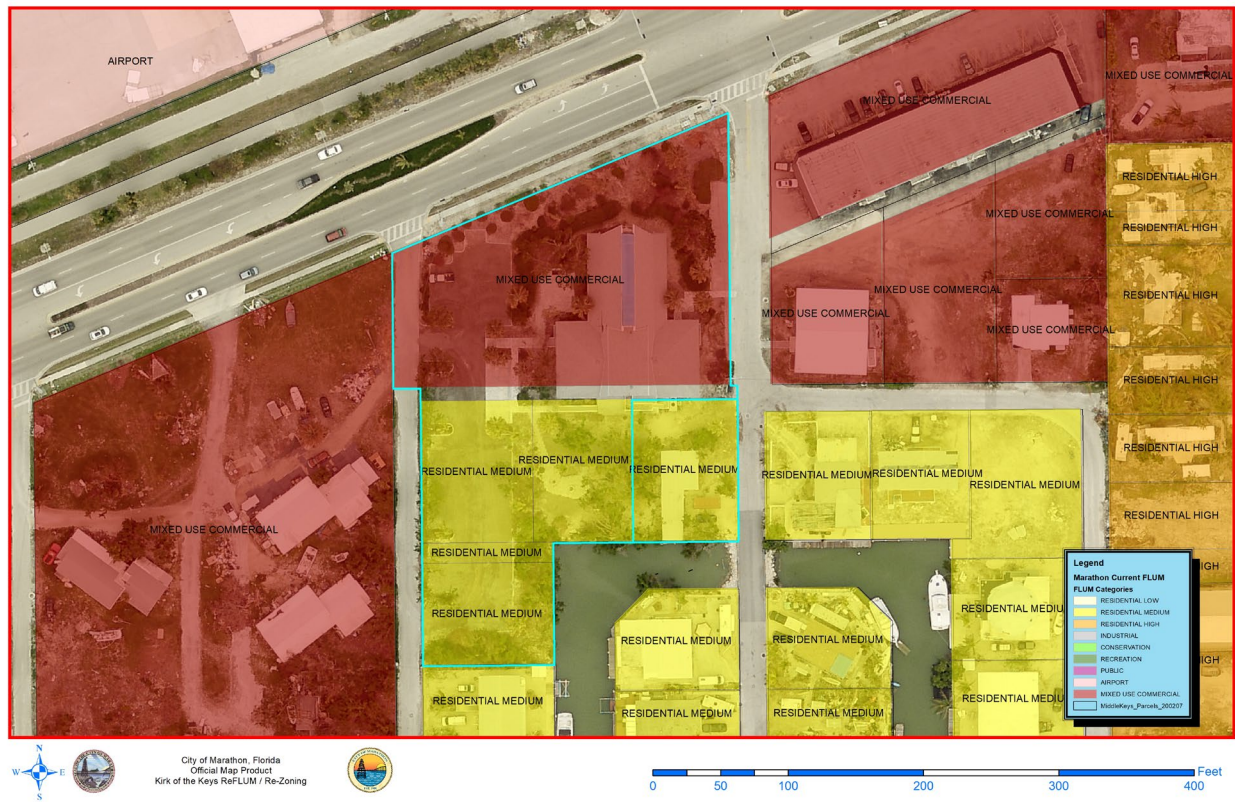


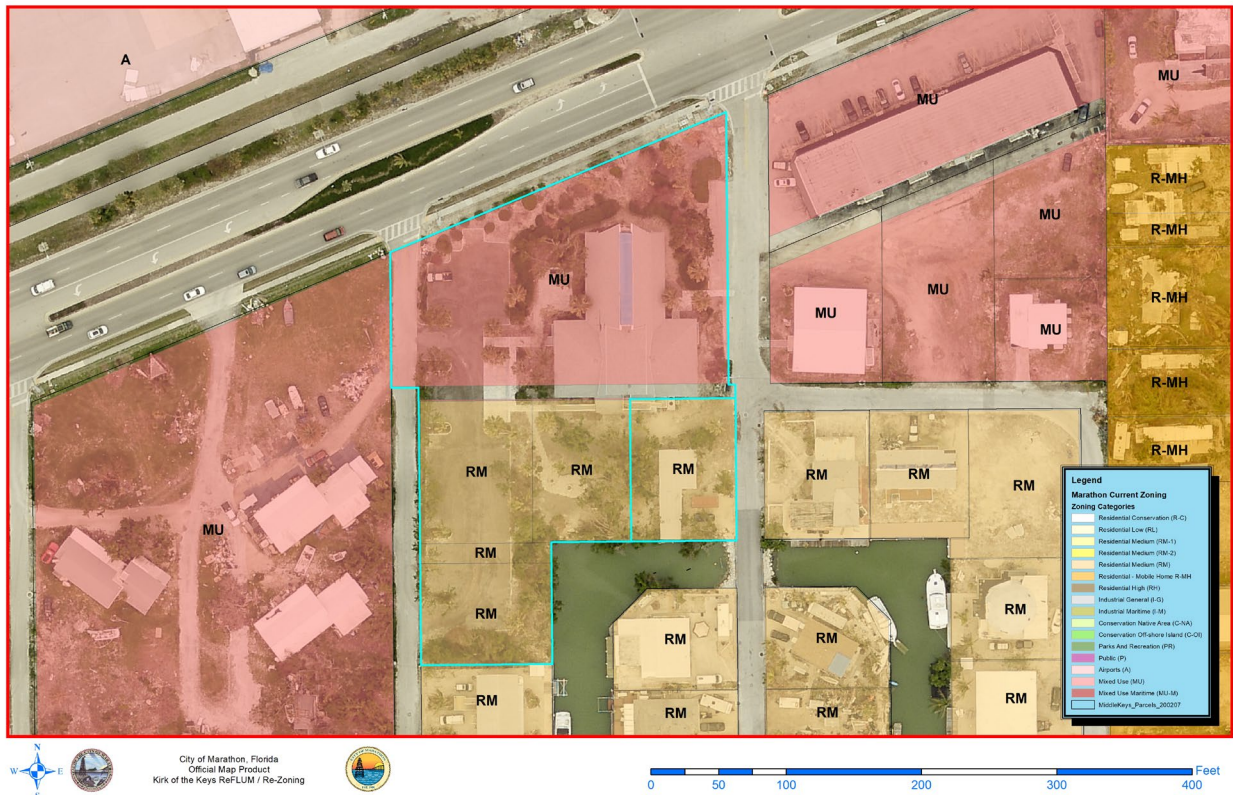
BACKGROUND:

The parcels were zoned Improved Subdivision and Suburban Commercial under Monroe County. In 2005, when the City of Marathon adopted the Comprehensive Plan, the parcels were given a Residential Medium (RM) & Mixed-Use Commercial (MU-C) FLUM designations and were in turn zoned as Residential Medium (RM) and Mixed Use (MU) when the City adopted the current zoning maps in 2007. Of note is that lot 3 had been proposed as Suburban Commercial zoning under the County. The Applicant is requesting the re-designation of the FLUM map to Mixed Use Commercial (MU-C) and subsequent rezoning to make the entirety of the parcels Mixed Use (MU).

Pre 2005	Pre 2007	2005	2007
OLD FLUM	OLD ZONING	CURRENT FLUM	CURRENT ZONING
Commercial, Institutional, and Residential Medium	Suburban Commercial & Improved Subdivision	Mixed Use Commercial & Residential Medium	Mixed Use & Residential Medium

Existing FLUM and Zoning





Current and Proposed Future Land Uses and Zoning

Future Land Use Map Designation

Current: Residential Medium (RM) & Mixed-Use Commercial (MU-C)
Proposed: Mixed Use Commercial (MU-C)

Land Use (Zoning) District Designation

Existing: Residential Medium (RM) & Mixed Use (MU)
Proposed: Mixed Use (MU)

Use of Properties

Existing: Kirk of the Keys Presbyterian Church & Manse
Proposed: Kirk of the Keys Presbyterian Church & Manse

Surrounding FLUM, Zoning and Uses

The property consists of currently two parcels, though historically was platted and replatted as multiple parcels. The property is located in an area that is a mix of commercial and residential.

Adjacent land use is single family residential. Surrounding zoning is Residential Medium to the South, Airport to the North, and Residential Medium and Mixed Use to the East and, Mixed Use West. The following table correlates existing uses with the existing FLUM, zoning and uses.

	<u>Existing FLUM</u>	<u>Existing Zoning</u>	<u>Existing Uses</u>
North	Airport	Airport	Airport
East	Residential Medium & Mixed-Use Commercial	Residential Medium And Mixed Use	Single family residential, Masonic Lodge, Commercial retail.
South	Residential Medium	Residential Medium	Single family residential
West	Mixed Use Commercial	Mixed Use	Seaward Landing

Existing Habitat

The properties are not listed as any habitat types other than developed land.

FEMA

The properties are within the AE 7 flood zones.

DEVELOPMENT ANALYSIS:

Current FLUM: Residential Medium (RM)

Policy 1-3.1.4 Residential Medium of the Comprehensive Plan states “the principal purpose of the Residential Medium future land use category is to provide for medium density residential development. The Residential Medium future land use category is characterized by areas containing predominantly compact development on parcels with disturbed or scarified vegetation and areas that are appropriate for infill development ant that are served by existing infrastructure.”

Residential Medium Allowable Density

Market Rate – 5 Units per acre

Affordable – 10 units per acre

Transient – 0

Maximum Intensity (FAR) - 0

Minimum Open Space Ratio 20%

Proposed FLUM: Mixed Use Commercial

Policy 1-3.1.4 Recreation of the Comprehensive Plan states “the principal purpose of the Mixed-Use Commercial future land use category is to provide for the establishment of mixed-use development patterns and to recognize established mixed use development patterns within the City. This land use category is intended to provide for the commercial zoning districts where various types of commercial, retail, and office uses may be permitted at intensities which are consistent with the community character and the natural environment and to provide for various types of residential uses, including employee housing and commercial apartments. Whenever and wherever possible, the maintenance and enhancement of commercial fishing and related traditional uses such as retail, storage, and repair and maintenance which support the commercial fishing industry shall be encouraged within this land use category. Heavy industrial uses and similarly incompatible uses

shall be prohibited. Lawfully established RV parks where the majority of the RVs spaces are maintained and rented as transient spaces are also allowed within the Mixed-Use Commercial future land use category. The minimum lot size/density/intensity identified in Table 1-1 shall not preclude the continued use or redevelopment of existing commercial 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.”

Mixed Use Commercial Allowable Density

Market Rate – 2-6 units per acre

Affordable – 10-15 units per acre

Transient – 5-25 units per acre

Maximum Intensity (FAR) – 0.15-0.60

Open space ratio – 20%

ANALYSIS OF FLUM CHANGE REQUEST:

Consistency with Adopted Comprehensive Plan Goals, Objectives, and Policies.

The following excerpts from the City of Marathon Comprehensive Plan apply to the proposed development.

Policy 1-1.1.1 states the City is to protect and enhance the “small town” atmosphere and to encourage mixed- use development patterns.

Policy 1-1.1.3 states the City is to protect viable and stable residential neighborhoods from inconsistent uses via LDR standards for landscaping, buffering, bulk restrictions, building height, setbacks, and separation between uses.

Policy 1-1.1.4 states the City shall continue to maintain LAND DEVELOPMENT REGULATIONS which implement the following techniques required to create a smooth land use transition where it is not feasible to separate incompatible land uses.

- a. Variable buffers, combining land and landscaping to achieve adequate separation of uses, appropriate open space, reduction of potential noise, light, glare, and pollution, and screening of physical features of a proposed development;
- b. Variable setbacks, based upon degree of difference in proposed use, density, intensity, scale, mass, or height;
- c. Placement and effective screening or shielding of site features such as lights, signs, dumpsters, loading areas, parking areas, outdoor storage, or other features with potential negative impacts;
- d. Effective transitions of on-site densities, intensities, scale, mass, and height; and
- e. Other innovative site design features that effectively achieve compatibility and effectively mitigate potential negative impacts.

FL State Statutes

Relevant criteria promulgated in Chapters 163, 380, can be itemized in bullets as follows based on the critical concerns more specifically identified in the City's comprehensive plan:

- Natural Resource Protection
 - Wetlands
 - Estuaries
 - Living marine resources
 - Beaches / Dunes
 - Unique wildlife habitat
 - Water Quality
- Hazard Mitigation
 - CHHA
 - Hurricane Evacuation
- Ports
 - Marina Siting
- Historical Resources
- Public Use
 - Shoreline use and Access
 - water dependent and independent activity
- Infrastructure / Concurrency Management
 - Wastewater
 - Stormwater
 - Potable Water
 - Solid Waste
 - Transportation
- Land Acquisition
 - Conservation
 - CHHA
 - Public Services
- Affordable Housing

These bullet items will be utilized as the focus points for review of the proposed FLUM amendment and re-Zoning and for future comprehensive plan amendments.

In General

This property is currently split zoned and was historically bisected by a platted road that was abandoned by Monroe County. The Church as it exists sites on both parcels. The manse will be redeveloped on the current vacant smaller parcel.

The proposed FLUM and Zoning amendments **are compatible** with the present zoning pattern and conforming uses of nearby property and the character of the surrounding area. Therefore, it is staff's finding that the request is **in compliance** with this criterion.

Natural Resources

The area proposed for a FLUM change is listed as developed land. The parcel is NOT within the Florida Forever boundaries, which is land that has been identified as critical areas suitable for acquisition by federal, state, or local agencies. There is a mangrove fringe along the canal, but preservation of the mangrove fringe is unaffected by the change in zoning and FLUM.

The proposed FLUM and Zoning amendments **are consistent** with these provisions of the Comprehensive Plan and Chapters 163 and 380 F.S.

Historical and Cultural Resources

Protection of historical and cultural resources is crucial under the City's Comprehensive Plan, Chapters 163 and 380 F.S.

There are no known historical or cultural resources associated with the subject properties or within the area of the requested FLUM and Zoning changes. Therefore, the FLUM and Zoning changes would have no impacts on historical or cultural resources.

The proposed FLUM and Zoning amendments *are therefore consistent* with these provisions of the Comprehensive Plan and Chapters 16 and 380 F.S.

Infrastructure

• Wastewater infrastructure

Wastewater as an issue of infrastructure capacity and means of water quality protection represents the backbone to the City's Comprehensive Plan, the tenants of Chapters 163 and 380 F.S. The proposed FLUM and Zoning changes would not place any additional constraints on wastewater infrastructure capacity and would provide limited or no adverse impact resulting from additional nutrient loading.

The proposed FLUM and Zoning amendments *are therefore consistent* with these provisions of the Comprehensive Plan and Chapters 163 and 380 F.S.

• Stormwater infrastructure

Stormwater infrastructure capacity and means of water quality protection represent another of the backbone elements of the City's Comprehensive Plan, the tenants of Chapters 163 and 380 F.S. The City of Marathon requires that all property owners retain their stormwater on site. All proposals for new developments, and redevelopments, must submit detailed civil engineering plans for review by the City Engineer. Proposals for redevelopment would have to obtain all required permits through other applicable agencies, such as the Department of Environmental Protection or the South Florida Water Management District.

Staff believes that the proposed FLUM and zoning changes would have a diminimus impact on stormwater infrastructure capacity and *is therefore consistent* with these provisions of the Comprehensive Plan and Chapters 163 and 380 F.S.

• Potable Water

Monroe County's potable water facilities do not critically constrain the amount of future growth that can be accommodated in the County (see End Note 1). The current FKAA Consumptive Use Permit, when compared to current potable water consumption rates, will provide sufficient potable water to accommodate existing and committed development plus an additional 18,258 equivalent residential

units (ERU's) in unincorporated and incorporated Monroe County. The FKAA's Consumptive Use Permit has been renewed (see End Note 1). Costs of improvements to upgrade facilities for potable water supply, treatment, and distribution, in order to accommodate future growth impacts, would not be borne by the City, as this utility is private and would be in the FKAA's CIP, not the City's.

An increase in potable water demand is not expected as part of the proposed FLUM change, any increase would have a diminimus impact on potable water infrastructure capacity. The proposed FLUM and Zoning amendments *are therefore consistent* with these provisions of the Comprehensive Plan and Chapters 16 and 380 F.S.

- **Solid Waste**

Solid waste capacity is managed in the Florida Keys under haul-out contracts to mainland solid waste facilities. There are currently no limits on solid waste capacity that would be impacted by this FLUM proposal.

The proposed FLUM and Zoning changes would not impact concurrency levels of solid waste infrastructure capacity.

The proposed FLUM and Zoning amendment *are therefore consistent* with these provisions of the Comprehensive Plan and Chapters 16 and 380 F.S.

- **Transportation**

The requested FLUM change is not expected to have an adverse impact on roadway capacity.

Monroe County's roadway facilities do not critically constrain the amount of future growth that can be accommodated in the County or the City (see End Note 1). Although localized deficiencies characterize several segments of US 1, sufficient reserve capacity exists in the overall roadway system to accommodate existing and committed development plus an additional 5,738 residential units (see End Note 1). Only 2,550 were allocated to unincorporated Monroe County in 1992, of which 150 went to the City. Thus, there is reserve capacity on US 1 to accommodate planned growth in the City (see End Note 2).

The proposed FLUM and Zoning amendments *are therefore consistent* with these provisions of the Comprehensive Plan and Chapters 16 and 380 F.S.

Affordable Housing

Affordable housing is an important issue in the Florida Keys and throughout the state of Florida. The existing zoning requires 4,356 square feet of uplands to build both an affordable unit. The proposed zoning would require only 2,904 square feet of upland to build both an affordable unit. The existing church uses up 26,600 square feet of upland based upon institutional intensity of the existing approximately 37,279 square foot mixed use area. The remaining approximate 35,431 square foot area can allow for up to 8 affordable units under current zoning and FLUM. The proposed change would allow up to 12 affordable units. This is a net increase of 4 affordable units.

The proposed FLUM and Zoning changes will have a positive increase on the potential for affordable housing projects. The proposed FLUM and Zoning amendments *are therefore consistent* with these provisions of the Comprehensive Plan and Chapters 16 and 380 F.S.

Hazard Mitigation

• Coastal High Hazard Areas

The parcel is not within the Coastal High Hazard Area (CHHA). Any future development on site would have to comply with all provisions of the local City of Marathon Floodplain Ordinance, in accordance with the standards as set to be a participating community in the National Flood Insurance Program (NFIP).

Policy 4- 1.17.6 Limit Redevelopment in CHHA

The City shall limit redevelopment in areas within the CHHA shown by the Local Mitigation Strategy to be particularly susceptible to repeated damage. Criteria for assessing redevelopment potential for these properties shall be addressed within the Post Disaster Redevelopment Plan, to be prepared pursuant to Policy 4-1.22.3.

Policy 4-1.20.1 Discourage Development in the High Velocity Area

The City shall, through the Land Development Regulations, continue to encourage both residential and non-residential development away from the areas designated as high velocity storm surge areas through disincentives in the adopted BPAS.

While development in the CHHA is to be discouraged in the Comprehensive Plan, it can be permitted by the Land Development Regulations in cases where it cannot be avoided; in these cases, development is required to comply with local Floodplain Management Regulations related to Velocity zone construction. The City has recently revised its floodplain regulations to comply with all recent revisions to the construction standards typically applied in a VE (CHHA) zone.

The proposed FLUM and Zoning amendments *are therefore consistent* with these provisions of the Comprehensive Plan and Chapters 16 and 380 F.S.

• Hurricane Evacuation

The critical carrying capacity constraint at the present time is related to the requirement that hurricane evacuation clearance times for Monroe County be maintained at or below 30 hours through the Year 2002, and further reduced to 24 hours by 2010 (see End Note 1).

The Florida Department of Economic Opportunity in conjunction with sister state agencies and the participation of all local governments completed an analysis this year of current hurricane evacuation constraints. It was determined that under defined conditions, the County was able to maintain a 24-hour evacuation time while continuing the current ROGO and BPAS allocation formulas. Thus, for the ensuing ten (10) years the City will continue to be able to issue 30 residential allocations per year.

The proposed FLUM and zoning changes would have a neutral impact on hurricane evacuation times

with the BPAS system in place.

The proposed FLUM and Zoning amendments *are therefore consistent* with these provisions of the Comprehensive Plan and Chapters 16 and 380 F.S.

Ports – Marina Siting

Staff believes that the proposed FLUM and Zoning change will have no adverse impact on ports management or the City’s Marina Siting Plan.

The proposed FLUM and Zoning amendments *are therefore consistent* with these provisions of the Comprehensive Plan and Chapters 16 and 380 F.S.

Public Use – Access to Water

There is no public access to the water from this location. Staff believes that the proposed FLUM change will have no adverse impact on public access to water.

The proposed FLUM and Zoning amendments *are therefore consistent* with these provisions of the Comprehensive Plan and Chapters 16 and 380 F.S.

Land Acquisition

Land acquisition in the Florida Keys is conducted by the City, County, State, and to a limited extent the federal government for the purposes of resource conservation and management, removal of properties in the CHHA from public ownership, and to provide for public services and facilities. The parcel is on the Florida Forever boundary map.

The proposed FLUM and Zoning change would have no impact on land acquisition efforts. The proposed FLUM and Zoning amendments *are therefore consistent* with these provisions of the Comprehensive Plan and Chapters 16 and 380 F.S.

SUMMARY:

The Applicant requests a change in the FLUM and Zoning Map designations for the properties located at 8877 Overseas Hwy and 277 89th Street. Currently the properties are zoned as Residential Medium (RM) with FLUM designation of Residential Medium (RM).

The applicant is requesting a change to Mixed Use Commercial (MU-C) for the FLUM map and Mixed Use (MU) for the zoning map.

RECOMMENDATION:

Based on the above information, the Marathon Planning Department staff recommends that the Planning Commission recommend approval of the proposed FLUM and Zoning changes to Mixed Use Commercial (MU-C) (FLUM) and Parks and Mixed Use (MU) (Zoning).

Staff finds the proposed FLUM change and rezoning are consistent with the standards and tenants of Chapter 163 and 380 F.S., and the City's Comprehensive Plan adopted under the requirements of these statutes and rules.

End Notes:

1. The source of the future land use analysis based on carrying capacity limitations can be found in the Monroe County Comprehensive Plan Technical Document (Data and Analysis) Section 2.4 (pp. 2-86 – 2-95).
2. City of Marathon, Comprehensive Plan Data and Analysis, page 10.

Sponsored By: Garrett
Planning Commission Public Hearing Date: July 17, 2023
City Council Public Hearing Dates: August 8, 2023
January 9, 2024
Enactment Date: January 9, 2024

**CITY OF MARATHON, FLORIDA
ORDINANCE 2023-16**

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA AMENDING THE FUTURE LAND USE MAP (FLUM) FROM RESIDENTIAL MEDIUM (RM) TO MIXED USE COMMERCIAL (MU-C) FOR PROPERTY DESCRIBED AS LOTS 1 THROUGH 4 OF BLOCK 6 AND LOT 4 OF THE AMENDED PLAT OF GULFSTREAM SHORES OF MARATHON PLAT #2 AS RECORDED IN PLAT BOOK 3-142, HAVING REAL ESTATE NUMBERS 00100890-000000 AND 00349440-000000; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY.

WHEREAS, pursuant to the provisions of Chapters, 163, 166 and 380 Florida Statutes, the City of Marathon, Florida (the "City") proposes to amend the City's Future Land Use Map (the "Map") to change the land use district designation of property owned by the City of Marathon, from Residential Medium (RM) to Mixed Use Commercial (MU-C); and

WHEREAS, amending the Map designation of the Property furthers the goals, objectives, and policies of the City Comprehensive Plan (the "Plan"); and

WHEREAS, pursuant to Chapter 163, *Florida Statutes*, and Sections 101.02 and 102.22 of the Code, the Planning Commission sitting as the Local Planning Agency publicly considered the proposed FLUM Map amendment on July 17, 2023, at a duly noticed public hearing, and has recommended approval of the proposed FLUM Map amendment to the City Council; and

WHEREAS, pursuant to the same legislative provision, the City Council considered the recommendation of the Planning Commission, accepted public input, and deliberated on the proposed Map amendment on August 8th, 2023 and January 9, 2024 at a duly noticed public hearing, and recommended that the amendment be transmitted to the Florida Department of Economic Opportunity (DEO) for review; and

WHEREAS, in accordance with Section 166.041, *Florida Statutes*, notice of the public hearings concerning the proposed Map amendment has been provided to the general public; and

WHEREAS, the City Council finds that approval of the proposed Map amendment is in the best interest of the City and complies with applicable laws and is consistent with the South Florida Regional Plan, the State Plan, Chapter 163, *Florida Statutes*, the principles for guiding development in the Florida Keys Area of Critical State Concern, the goals, objectives, and policies of the Plan, Chapter 102, Article 6 of the Code, and promotes and protects the health, safety and welfare of the residents of the City; and

WHEREAS, the City Council desires to approve the proposed Map amendment, in accordance with State law.

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

SECTION 1. The above recitals are true, correct, and incorporated herein by this reference.

SECTION 2. The proposed FLUM Map designation change of the Property is approved in its first reading from its current designation of Residential Medium (RM) to Mixed Use Commercial (MU-C) (See Attachment “A”).

SECTION 3. The City Council directs staff to transmit the revised Map reflecting the Map amendment, and all data and analysis supporting the Map amendment, to the Department of Economic Opportunity, in its capacity as the State Land Planning Agency, as required by Chapters 163 and 380, *Florida Statutes*.

SECTION 4. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 5. The effective date of this FLUM Amendment, if the amendment is not timely challenged, shall be the date the state land planning agency posts a notice of intent determining that this amendment is in compliance. If timely challenged, or if the state land planning agency issues a notice of intent determining that this amendment is not in compliance, this amendment shall become effective on the date the state land planning agency, or the Administration Commission enters a final order determining this adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the State Land Planning Agency.

**ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS
9TH DAY OF JANUARY, 2024.**

THE CITY OF MARATHON, FLORIDA

Robyn Still, Mayor

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Diane Clavier, City Clerk

**APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:**

Steve Williams, City Attorney

ATTACHMENT A Adopted FLUM

