

CITY COUNCIL AGENDA STATEMENT



**Meeting Date:** January 9, 2024  
**To:** Planning Commission  
**From:** Brian Shea, Planning Director  
**Through:** George Garratt, City Manager

**Agenda Item:**

**Ordinance 2024-01**, A Request By Patrick Stevens (on behalf of Floridas Duck Key Properties LLC) To Amend The Future Land Use Map From Residential High (RH) to Mixed Use Commercial (MUC) For N 50 FT Lot 3, Block 3; S 50 FT Lot 3, Block 3; and N1/2 Lot 4, Block 3; and S 1/2 Lot 4, Block 3 The Palms, Key Vaca PB4-86; Having Real Estate Numbers 00332920-000000, 00332930-000000, 00332940-000000, and 00332940-000100, Marathon, Florida, Monroe County, Florida; Nearest Mile Marker 53.

**Ordinance 2024-02** A Request By Patrick Stevens (on behalf of Floridas Duck Key Properties LLC) to Amend Land Development Regulations Zoning Map From Residential Mobile Home (R-MH) to Mixed-Use (MU) For N 50 FT Lot 3, Block 3; S 50 FT Lot 3, Block 3; and N1/2 Lot 4, Block 3; and S 1/2 Lot 4, Block 3 The Palms, Key Vaca PB4-86; Having Real Estate Numbers 00332920-000000, 00332930-000000, 00332940-000000, and 00332940-000100, Marathon, Florida, Monroe County, Florida; Nearest Mile Marker 53.

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**APPLICANT/OWNER/AGENT:** Patrick Stevens

**LOCATION:** The subject properties are located at E. 105<sup>th</sup> St. Marathon, Having Real Estate Numbers 00332920-000000, 00332930-000000, 00332940-000000, 00332940-000100.

**ADDRESS:** 315 E 105TH St, 325 E 105TH St, 419 E 105TH St & 425 E 105TH St, near Mile Marker 52.5

**Location Map**



**REQUEST:** Amend the Future Land Use Map (FLUM) for the subject properties from Residential High (RH) to Mixed Use Commercial (MU-C).

Amend the Zoning Map for the subject properties from Residential Mobile Home (R-MH) to Mixed Use (MU).

**LOT AREA:** The aggregated size of the parcels is approximately 0.34 acres (14,842 sq./ft.)

**BACKGROUND:**

In 2005, when the City of Marathon adopted the Comprehensive Plan, the parcels were given a Residential High (RH) FLUM designation and were in turn zoned as Residential Mobile Home (R-MH) when the City adopted the current zoning maps in 2007. The applicants are requesting the re-designation of the FLUM map and subsequent rezoning to make the parcels consistent with the Mixed-Use Commercial (MU-C) designation and existing and proposed uses. The rezoning is not addressed in this application. The properties are currently vacant.

The applicants have stated that the FLUM and zoning designation should be the same as the adjacent owned commercial property to the North and East.

	Pre 2007	2005	2007
Old FLUM	OLD ZONING	CURRENT FLUM	CURRENT ZONING
Mixed Use/Commercial	Suburban Residential	Residential High	Residential Mobile Home

**Current and Proposed Future Land Uses and Zoning**

*Future Land Use Map Designation*

Current: Residential High (RH)  
 Proposed: Mixed Use Commercial (MU-C)

*Land Use (Zoning) District Designation*

Existing: Residential Mobile Home (R-MH)  
 Proposed: Mixed Use (MU)

*Use of Properties*

Existing: Vacant  
 Proposed: Parking lot or outdoor storage

Figure 1: Existing FLUM

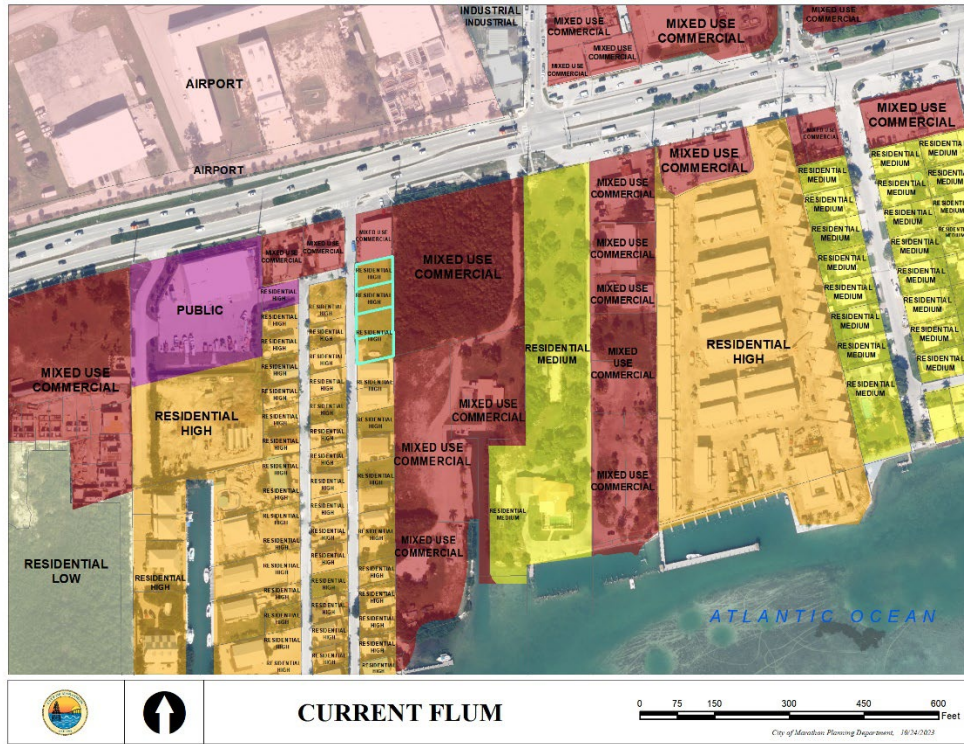
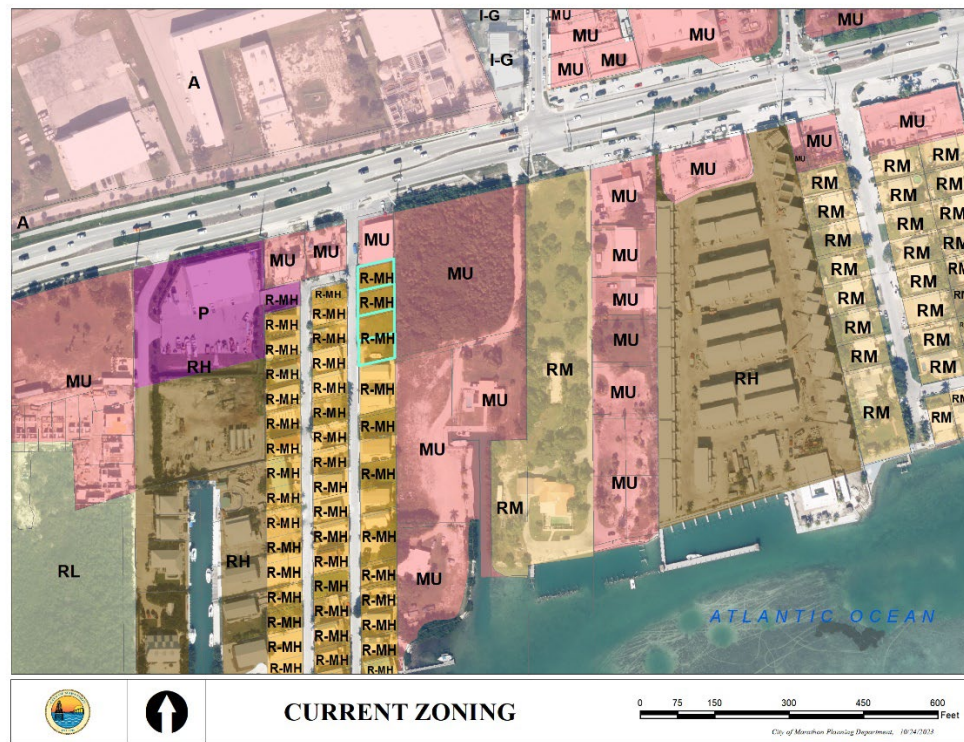


Figure 2: Existing Zoning



**Surrounding FLUM, Zoning and Uses**

The property subject to the FLUM amendment is located on E 105th<sup>rd</sup> Street and consists of four parcels. Adjacent land use to the North is commercial which is zoned Mixed-Use. To the South is a single-family home zoned Residential Mobile home. To the East is State of Florida-owned conservation land zoned Mixed-Use. Across the street there is vacant land and a single-family home zoned Residential Mobile Home. 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>
<b>North</b>	Mixed Use Commercial (MUC)	Mixed Use (MU)	Retail
<b>East</b>	Mixed Use Commercial (MUC)	Mixed Use (MU)	Conservation
<b>South</b>	Residential High (RH)	Residential Mobile Home (R-MH)	Single-family home
<b>West</b>	Residential High (RH)	Residential Mobile Home (R-MH)	Single-family home and vacant lots

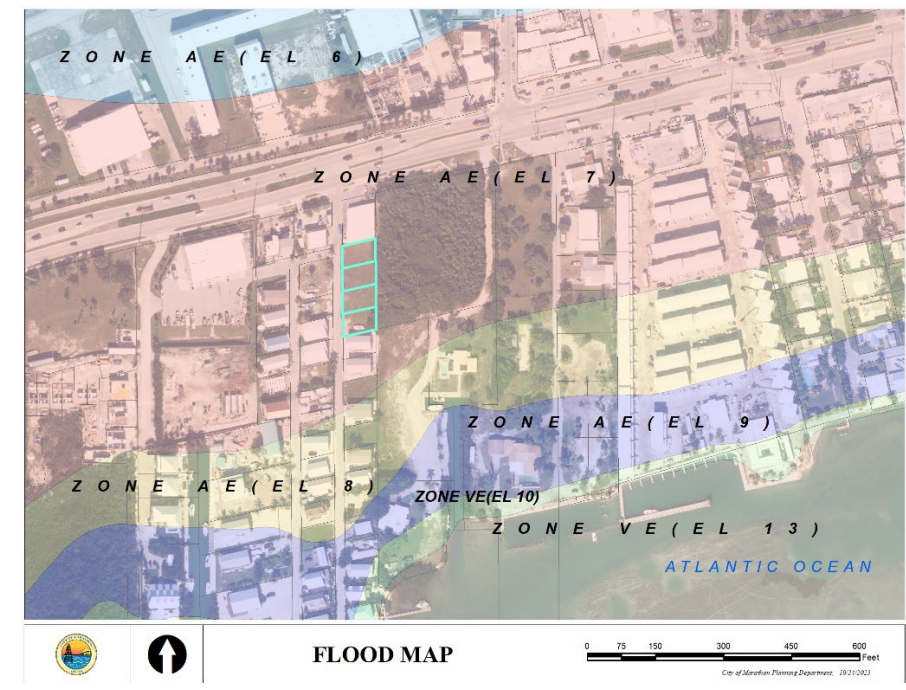
**Existing Habitat**

The existing conditions maps indicate the properties are designated as vacant. The parcels are 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.

**FEMA**

The properties are within the AE 7 Flood zone.

Figure 3: FEMA Flood Map



## **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

Other innovative site design features that effectively achieve compatibility and effectively mitigate potential negative impacts.

### **Consistency with FL State Statutes**

Relevant criteria promulgated in Chapters 163, 380, and 9J-5 F.A.C. 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
- *Historical Resources*
- *Infrastructure / Concurrency Management*
  - Wastewater
  - Stormwater
  - Potable Water
  - Solid Waste
  - Transportation
- *Affordable Housing*
- *Hazard Mitigation*

- CHHA
- Hurricane Evacuation
- *Ports*
  - Marina Siting
- *Public Use*
  - Shoreline use and access
  - Water-dependent and independent activity
- *Land Acquisition*
  - Conservation
  - CHHA
- Public Services

The above bullet items will be utilized as the focus points for the review of the proposed zoning amendment and for future comprehensive plan amendments.

### **Natural Resources**

Direct impacts to natural resources would differ minimally as a result of the proposed FLUM and zoning change. These properties are not recognized as potential habitat to any state or federally listed animal species and are not within Florida Forever boundaries or critical habitat areas.

The proposed FLUM and zoning changes *are, therefore, consistent* with these provisions of the Comprehensive Plan and Chapters 16 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 change. Therefore, the FLUM and zoning changes would have no impact on historical or cultural resources. The proposed FLUM and zoning amendment *is, 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 subject property inclusive of the area of the proposed FLUM change is served by the Area 5 sewer infrastructure. The Utility Manager for the City of Marathon reviewed the proposed FLUM and zoning changes and determined that there would be no adverse impact on sewer capacity if the proposal were approved.

The proposed FLUM and zoning changes would maintain concurrency levels of wastewater infrastructure

capacity and provide limited or no adverse impact resulting from nutrient loading. The proposed FLUM amendment *is, 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 & South Florida Water Management District. Final plans submitted for permitting are required to provide existing and proposed elevations for review.

Staff believes that the proposed FLUM and zoning change 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. 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. 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 and zoning changes, any increase would have a di minimus 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 proposal.

The proposed FLUM and Zoning amendments *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. The proposed FLUM and Zoning changes would not affect concurrency levels of transportation on U.S. Highway 1. Staff are concerned about commercial traffic on the oneway street. Entrance to the site should be limited to the northern end of parcels so commercial traffic is not directed through the residential neighborhood.



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

### **Affordable Housing**

Affordable housing is an important issue in the Florida Keys and throughout the state of Florida. The City has well over 500 developed or approved affordable housing units. The proposed FLUM and zoning change would decrease the potential for increased affordable housing on-site. The Mixed Use FLUM category allows for a potential of 15 units per acre of affordable housing versus the RH FLUM category which allows for 15 to up to 25 units per acre. Therefore, excluding the potential for density bonus, the number of affordable units does not change.

The proposed FLUM and zoning change will have the effect of enhancing the potential for affordable housing projects. The proposed FLUM amendment and zoning change *is therefore consistent* with these



provisions of the Comprehensive Plan and Chapters 163 and 380 F.S.

### **Hazard Mitigation**

- **Coastal High Hazard Areas**

The subject parcels are not in a Coastal High Hazard Area (CHHA).

#### 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. This property is not within the proposed LiMWA area.

The proposed FLUM and zoning change results in no adverse impact to public safety. The proposed FLUM and zoning amendments *are, therefore, consistent* with these provisions of the Comprehensive Plan and Chapters 163 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.

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. Additionally, 25,000 square feet of Commercial or CBPAS is available per period.

The proposed FLUM and zoning change would have no adverse impact on hurricane evacuation times with the BPAS system in place. The proposed FLUM and zoning amendment *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 changes will have no adverse impact on ports management or the City’s Marina Siting Plan. Marinas are allowed under a conditional use permit in the Mixed Use (MU) zoning district under the City’s Land Development Regulations; however, as this property is landlocked, no marina development is foreseeable.

The proposed FLUM and zoning amendment **is, 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 and zoning change will have no adverse impact on public access to water. The proposed FLUM and zoning amendment **is, 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 carried out 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 parcels are not 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 applicants have requested a change in the Future Land Use Map (FLUM) designation for the parcels located on E 105<sup>th</sup> Street. Currently, the property is designated as Residential High (RH). The applicant is requesting a change to Mixed Use Commercial (MUC) and subsequent rezoning of the parcel.

The applicants have requested a change in the Zoning designation for the parcels located on E 105<sup>th</sup> Street. Currently, the property is designated as a Residential Mobile Home (R-MH). The applicant is requesting a change to Mixed Use (MU).

Staff finds the proposed FLUM and zoning changes 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.

**RECOMMENDATION:**

Based on the above information, the Marathon Planning Department staff recommended that the Planning Commission forward a recommendation of approval to the Council.

The Planning Commission forwards a unanimous recommendation of denial of the request to amend the Future Land Use Map for these parcels from Residential High (RH) to Mixed Use Commercial (MU-C) and the request to amend the Zoning Map for this parcel from Residential Mobile Home (R-MH) to Mixed Use (MU).

- ▶ Planning Commission recommended denial (4-0).

**Proposed site plan:**



**SITE DATA:**  
 ZONING: (UR) URBAN RESIDENTIAL  
 FLUM: (RH) RESIDENTIAL HIGH  
 SITE SETBACKS:  
 FRONT: 15'  
 REAR: 10'  
 LEFT SIDE: 10'  
 RIGHT SIDE: 5'  
 PARKING:  
 14 SPACES  
 BUFFER:  
 A: 1.6 CANOPY, 8 SHRUBS PER 100'  
 C: 5 CANOPY, 2 UNDERSTORY,  
 20 SHRUBS PER 100'

**SITE DATA (CONT.):**  
 PARKING AREA SIZE: 10278 SQFT  
 STORMWATER AREA SIZE: 3098 SQFT  
 DRAINAGE CALC:  
 AREA = 15000 SQFT = 0.34 ACRE  
 FOR 1" WATER, V = 1250 CUBIC FT  
 LENGTH SWALE = 450 FT  
 $(0.75 \times 1250 \text{ FT}^3) / 450 \text{ FT} = 2.08 \text{ SQFT}$   
 $\frac{10}{1.4} \times \frac{1}{2} \times 1.4 = 6 \text{ SQFT}$   
 $1 > 2.08 \text{ SQFT}$   
 SWALE CS = 6 SQFT

105TH REZONE  
 SITE EXHIBIT  
 CW3 PROJECT NO.: 23-0028  
 DATE: 06-07-23



CW3 ENGINEERING, INC.  
 5783 BAYSHORE RD., SUITE 113  
 NORTH FT. MYERS, FL 33917  
 239-205-6473  
 WWW.CW-3.COM

**Sponsored By: Garrett**  
**Planning Commission Public Hearing Date: December 18, 2023**  
**City Council Public Hearing Dates: January 9, 2023**  
**Enactment Date: TBD**

**CITY OF MARATHON, FLORIDA**  
**ORDINANCE 2024-01**

**AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA AMENDING THE FUTURE LAND USE MAP (FLUM) FROM RESIDENTIAL HIGH (RH) TO MIXED USE-COMMERCIAL (MU-C) FOR THE PROPERTY DESCRIBED AS N 50 FT LOT 3, BLOCK 3; S 50 FT LOT 3, BLOCK 3; AND N1/2 LOT 4, BLOCK 3; AND S 1/2 LOT 4, BLOCK 3 THE PALMS, KEY VACA PB4-86, MARATHON, FLORIDA, MONROE COUNTY, FLORIDA; HAVING REAL ESTATE NUMBERS 00332920-000000, 00332930-000000, 00332940-000000, AND 00332940-000100; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF COMMERCE; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY FLORIDA COMMERCE.**

**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 Floridas Duck Key Properties LLC, from Residential High (RH) 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 December 18, 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 January 9, 2024 and again on **TBD** at a duly noticed public hearing, and recommended that the amendment be transmitted to Florida Commerce 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 High (RH) to Mixed Us-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 Florida Commerce, 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 \_\_\_TH DAY OF \_\_\_ 2024.**

**THE CITY OF MARATHON, FLORIDA**

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**Robyn Still, Mayor**

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

**ATTEST:**

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Diane Clavier, City Clerk

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

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Steven T. Williams, City Attorney

# ATTACHMENT A

