



CITY COUNCIL AGENDA STATEMENT

Meeting Date: March 12, 2024
From: Brian Shea, Planning Director
Through: George Garrett, City Manager

Agenda Item: **Resolution 2024-25**, Consideration Of A Request By Uphoff Investments LLC For A Conditional Use Permit, Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (“The Code”) Entitled “Conditional Use Permits”, Authorizing The Development Of Twelve (12) Residential Units And Accessory Structures; Which Is Legally Described As Section 5 Township 66 Range 33 Fat Deer Key Part Lots 1-2, Monroe County, Florida, Having Real Estate Numbers 00100260-000000. Nearest Mile Marker 53.

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

APPLICANT/ OWNER: Uphoff Investments LLC

AGENT: Steven Hurley

LOCATION: The project site is located at 12640 Overseas Hwy at nearest mile marker 53. See Figure 1.

REQUEST: A Conditional Use Permit approving the development of eight (8) Single Family Residential Units, a four-plex (4) Multifamily Unit and Accessory Structures.

LOT SIZE: Total acreage 2.45 acres or 106,722 square feet.

SURROUNDING ZONING AND USES:

	<u>Zoning</u>	<u>Use</u>
North	N/A	Open Water
West	Mixed Use (MU) and Residential High (RH)	Previous Keys Federal Credit Union and Gulfpointe Condominium
East	Mixed Use (MU)	Island Fish Company
South	Mixed Use (MU)	Wharf Marina and Bonefish Storage

EXISTING CONDITIONS:

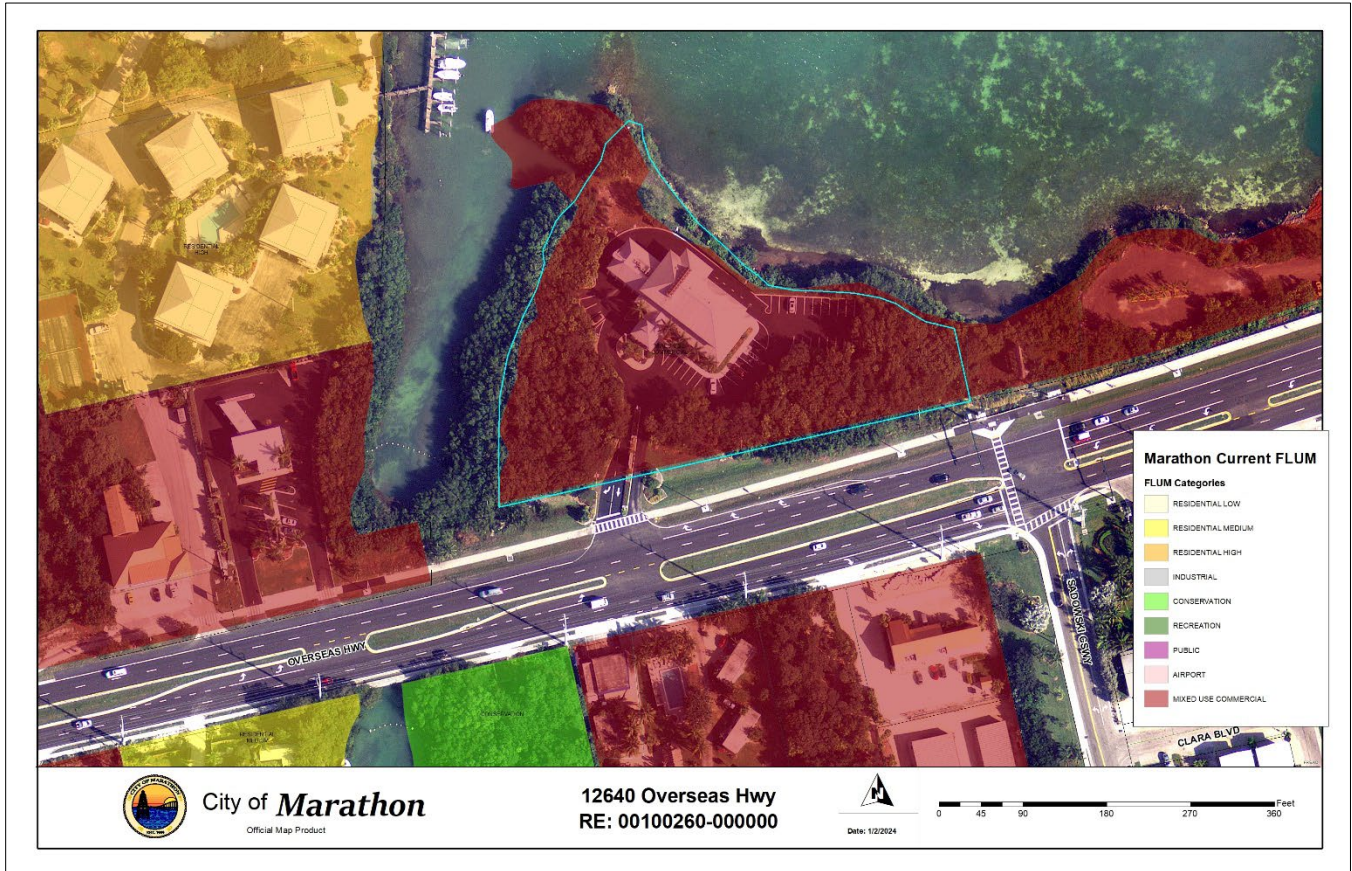
The project site consists of an existing two-story commercial building. The existing FLUM is Mixed Use Commercial (MU-C), and the zoning is Mixed Use (MU). See Figures 2 and 3.

**Figure 1
Project Site**



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

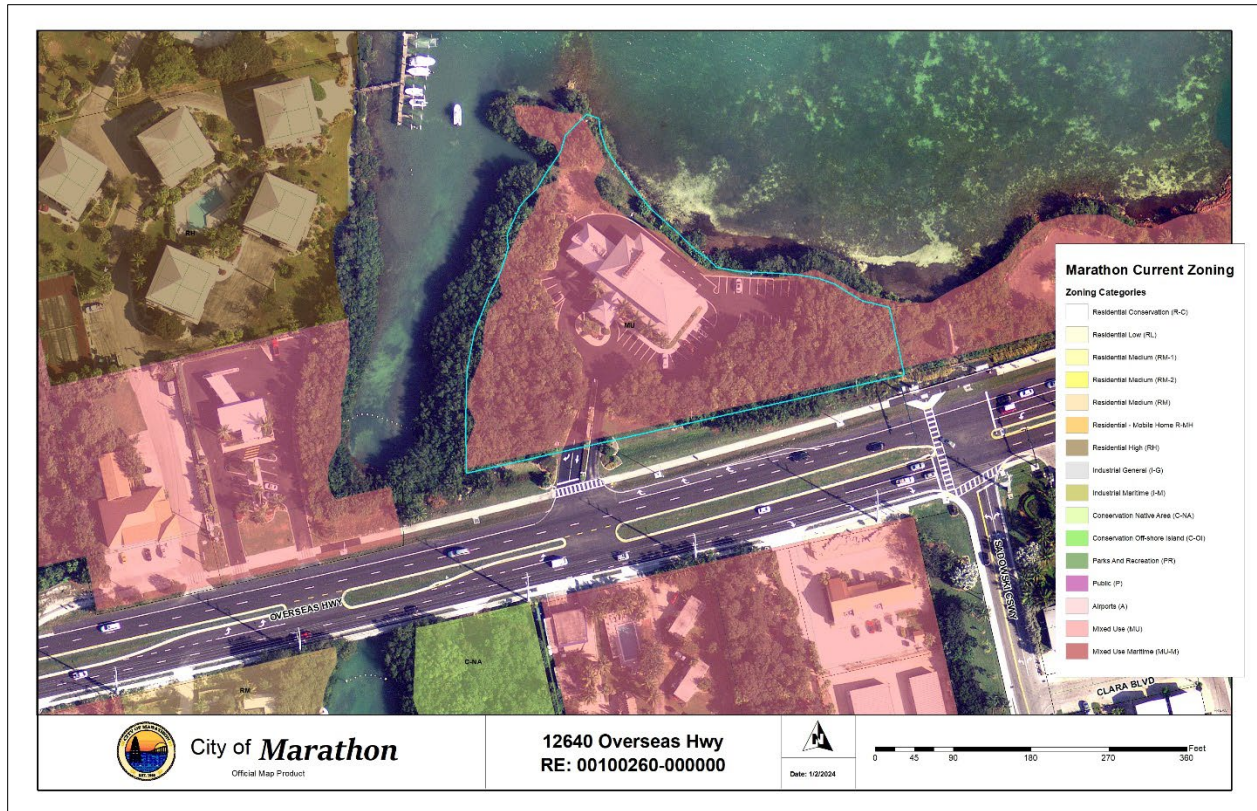
Figure 2
Future Land Use Map



ZONING MAP DESIGNATION:

Mixed Use (MU). See Figure 3.

**Figure 3
Zoning Map**



PROPOSED REDEVELOPMENT:

The Applicant requests a change of use to develop eight (8) single family residential units, a four-plex (4) multifamily residential unit and accessory structures.

BACKGROUND:

The proposed project seeks to redevelop property that was previously used as a bank. The total property size is 106,722 square feet.

EVALUATION FOR COMPLIANCE WITH THE LAND DEVELOPMENT REGULATIONS:

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

CRITERIA

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

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

The proposed project is for 12 resident units and accessory structures, an allowed use as conditional use pursuant to Table 103.15.1 of the LDRs, supported by elements of the Comprehensive Plan. Relevant Policies concerning this project follow:

City of Marathon Comprehensive Plan

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

The project is surrounded by commercial development to the south, west and east. With a section of residential development to the west.

d. Policy 1-3.1.4 Future Land Use Categories

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

e. Policy 1-3.2.5 Maximum Height

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

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

The proposed density is consistent with the thresholds outlined in Table 1-1 of the Comprehensive Plan. Based on the upland area of 2.45 acres, the proposed twelve residential units and accessory structures utilize 80% of the density allowed for this site.

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

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

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

The redevelopment plan would need 12 market rate building rights which will need to be obtained.

City of Marathon Land Development Regulations

- Section 103.09 – Mixed Use (MU)

The MU District is intended to accommodate a wide range of commercial and residential uses and activities including residential units.

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

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

Table 103.15.2 in the Land Development Regulations establishes constraints on density and intensity allowed in the MU district based on the types of uses proposed.

Uphoff Investments, LLC	
Total 106,722 sq ft	
Market Rate (12)	87,120
Maximum allowed	101,640 sq ft (14 units)
Total Proposed	87,120 sq ft (12 units)

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

- Section 107.47 Parking

Parking for the site and the project is met with the proposed required parking spaces. The development provides twenty-four interior standard parking spaces, and one exterior handicap spaces for a total of twenty-five spaces.

- Section 107.40 Maximum Height

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

- Sections 107.63 – 107.72 Landscaping

The landscape plan includes a list of native trees to provide shade and temperature reduction along the internal roadway. The parcels to the east and west are zoned Mixed Use and a buffer is not required. Along US 1 corridor to the south the landscape planting will consist of a variety of native plant material varying in size and height as well as canopy trees. A mix of understory trees and shrubs will be planted in a variety of heights of maturity.

- Sections 107.73 – 107.81 Open Space

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

- Sections 107.82 – 107.85 Fences and Screening

The project meets City screening and landscaping requirements.

- Sections 107.87 – 107.97 Stormwater Management

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

- Sections 107.98 – 107.102.5 Floodplain Management

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

B. The proposed use is compatible with the existing land use pattern and future uses designated by the Comprehensive Plan;

The proposed project site is surrounded by other compatible commercial uses to the east, west and south.

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

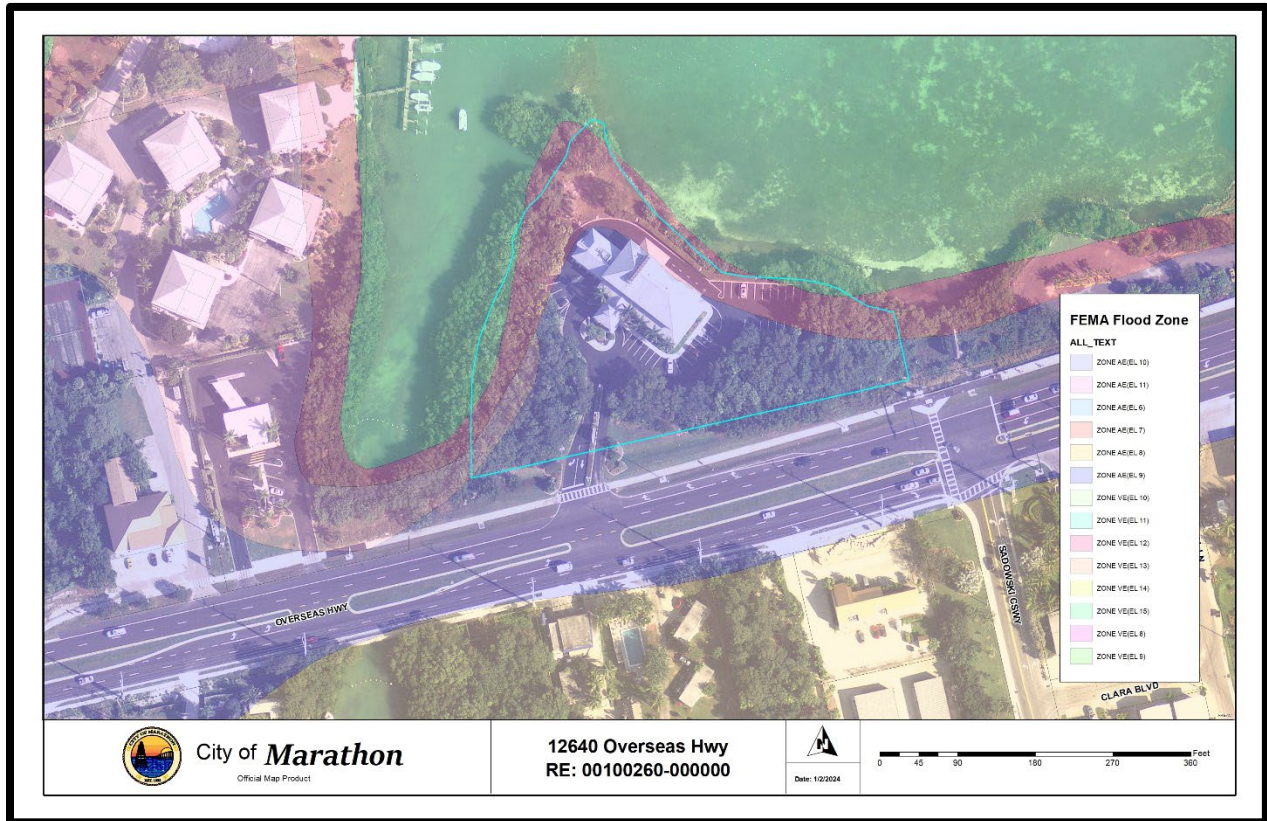
C. The proposed use shall not adversely affect the health, safety, and welfare of the public;

The proposed conditional use will enhance the community by providing affordable employee housing as well as new resident group home. The project will not cause any negative impacts to the City's health, safety, and welfare.

The existing structure will be remodeled with additional units to be built above FEMA's minimum flood elevations (AE9 and VE12) as shown in Figure 4 and is therefore compliant. Making certain the back portion of building will be altered so that the building will be located solely in the AE flood zone.

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

**Figure 4
Flood Zones**



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

There will be no negative impacts on habitat, environment, or water quality parameters. The proposed stormwater management system shall retain water generated from rain events on site thereby improving the quality of the near shore waters by treating and maintaining the stormwater on site. The shoreline is developed. A map of the area indicates that surrounding properties lie within the FEMA-FWS Species Focus Area for the Eastern Indigo Snake, Keys Tree Cactus and Stock Island Tree Snail. However, this has absolutely no impact on the project before the Planning Commission and City Council. As part of the permitting process any potential impacts will be reviewed for species based upon species assessment guides.

Figure 5
FEMA – FWS Species Focus Area Maps



All vegetation on site is a mix of non-invasive exotic plantings. A building permit issued in 2020 for invasive exotic removal was completed. Several canopy and understory trees will be planted per Conceptual Landscape Plan that was submitted. Streetscape treatment along US 1 will be installed including a mixture of shrubs and canopy trees. Native vegetation must be mitigated per Section 106.10.

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

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

- The project exceeds 1 acre of development, and as such an FDEP general permit for NPEDS will be required.
- An FDOT access permit and drainage permit/exemption is required for this project.
- Any native vegetation removed must be mitigated per Section 106.10.

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

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

The applicant has provided a traffic analysis for the proposed development. Parking will be provided to residents.

Table 2 12640 Overseas Highway Trip Generation Analysis Marathon, Florida								
Land Use	Size	Daily Trips	AM Peak Hour Trips			PM Peak Hour Trips		
			In	Out	Total	In	Out	Total
<i>Proposed</i>								
Single-Family Housing	8 DU	74	2	4	6	5	3	8
Multifamily Housing	4 DU	24	0	2	2	1	1	2
Total		98	2	6	8	6	4	10

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

The traffic will decrease from the previous use with the new redevelopment of the property. The project is not expected to adversely impact the operational characteristics of US1, nor will it inhibit the safe flow of traffic traveling through Marathon.

Section 107.48 requires a minimum of twenty-five (25) percent of the required spaces be for bicycle parking. Based upon the proposed parking spaces calculated seven (7) bicycle parking will be required on final site plan.

The applicant does not propose a change to the driveway for this project, therefore a FDOT access permit will not be required.

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

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

- Final site plan must show bicycle racks pursuant to Section 107.48.

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

Parking requirements are outlined in Section 107.47 (Mixed-Use Development Parking Requirements). The project provides adequate parking spaces as required.

Use	Code Citation	Requirement	Spaces Required
Mixed Use Development (housing)	107.47	Two (2) spaces per three (3) bedroom dwelling unit	24
Total Required			24
Total Provided			25

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

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

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

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

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

Section 107.39 requires that all dumpsters be fully enclosed and screened.

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

- Final site plan must include dumpster pursuant to Section 107.39.

5. Utilities, with reference to location and availability;

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

- Wastewater: The applicant will provide wastewater and sewage collection and disposal through cooperation with the Utilities Department.
- 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: A traffic study was completed to analyze the impact on transportation facilities resulting in less of an impact from the previous use.
- Educational Facilities: This redevelopment will have a de minimis impact on educational facilities.

Therefore, 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.
- Applicants must obtain all outside agency approvals.
- City approval of the connection to the City Wastewater Utility will be required.
- 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;

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

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.

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

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

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

- All signs will be reviewed and approved for compliance with the City of Marathon LDR's.

8. Required yards and other open space;

Section 106.16 established required open space for the project. The parcel is developed; therefore, a twenty percent open space requirement applies and the site complies with this minimum requirement.

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

9. General compatibility with surrounding properties; and

The proposed development is a residential development. The scale and layout of the proposed building are consistent with the City Code.

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

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

Section 104.48 Residential Dwelling Units contains special requirements.

The following criteria are applicable to this proposed development:

- 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.

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

CONCLUSION:

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

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

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

RECOMMENDATION:

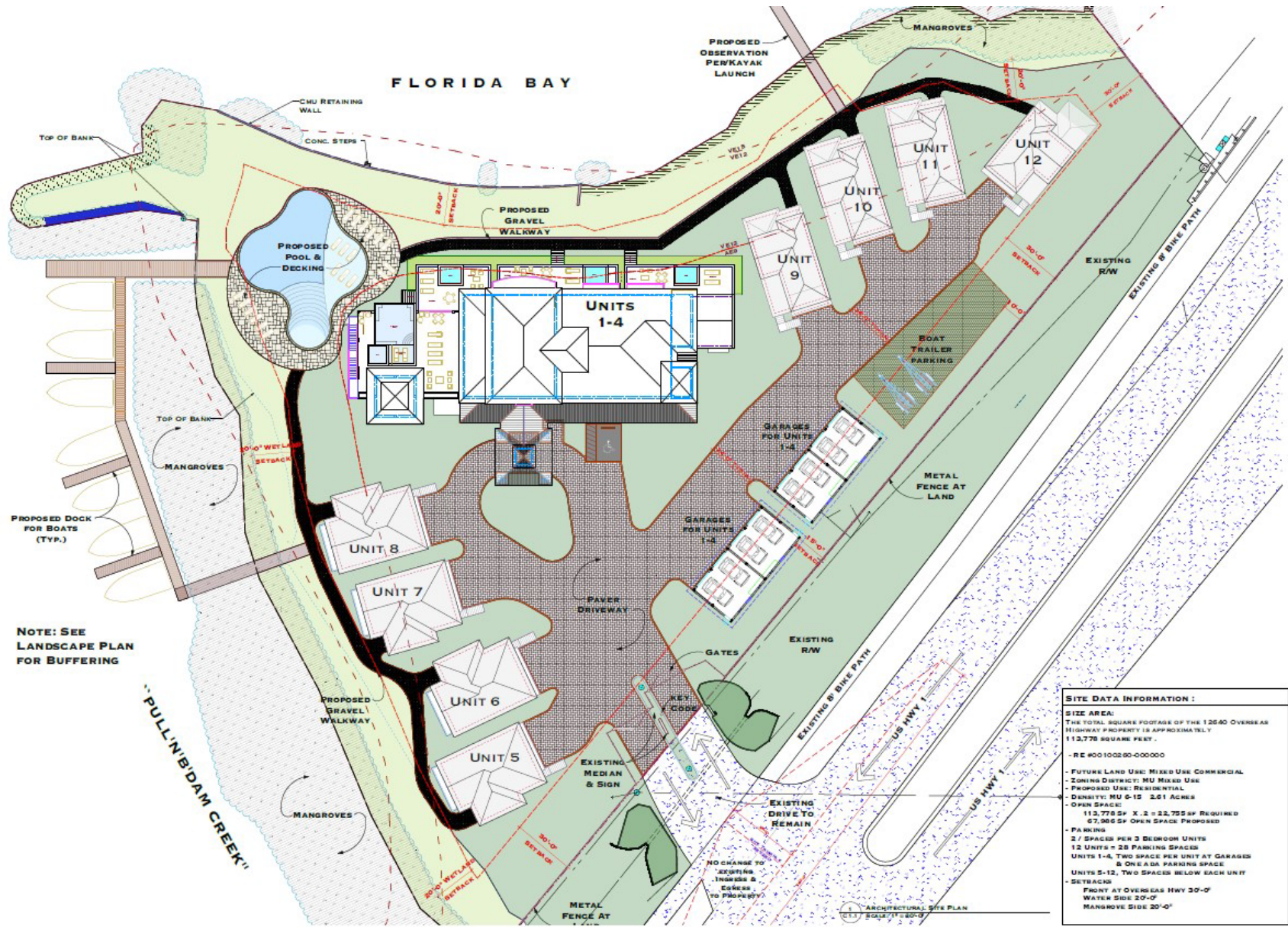
Planning staff recommend approval of the proposed Conditional Use Permit allowing the development of twelve (12) residential units and accessory structures provided that **all conditions are met prior to permit issuance**. The proposed conditions of approval are listed below. Planning Commission recommends approval (3-0).

Conditions of Approval

1. All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
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 the stormwater management system prior to Building Permit Approval.
4. Applicants must obtain all outside agency approvals prior permit issuance and prior to project initiation.
5. A Final Landscape Plan must be submitted showing the proper treatments and buffers, including the appropriate treatment types and trees.
6. A Final Site Plan must be submitted showing the buildings meeting the required setbacks, parking locations, and access drives.
7. A sewer flow estimate from an engineer will be required to reassess any additional impact.
8. City approval of the connection to the City Wastewater Utility will be required.
9. The project exceeds 1 acre of development, and as such an FDEP general permit for NPEDS will be required.
10. Any native vegetation removed must be mitigated per Section 106.10.
11. The private yard area for rooftop balcony dwelling is provided by the roof or balconies of the structure.
12. 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.
13. 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.
14. 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.
15. The Applicant must obtain and transfer twelve (12) market rate housing units, to be transferred via the Transfer of Building Rights (TBR's), BPAS process, or any other legally established process prior to building permit issuance. THE APPROVAL OF THE REQUESTED CONDITIONAL USE PERMIT AMENDMENTS DO NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF ANY RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT.
16. The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.

17. Final site plan must show bicycle racks.
18. Final site plan must include screened dumpster pursuant to Section 107.39.

SITE PLAN



SITE DATA INFORMATION :	
SIZE AREA:	THE TOTAL SQUARE FOOTAGE OF THE 12640 OVERSEAS HIGHWAY PROPERTY IS APPROXIMATELY 113,778 SQUARE FEET.
	- RE #00100260-000000
	- FUTURE LAND USE: MIXED USE COMMERCIAL
	- ZONING DISTRICT: MU MIXED USE
	- PROPOSED USE: RESIDENTIAL
	- DENSITY: MU 6-15 2.61 ACRES
	- OPEN SPACE:
	113,778 SF X .2 = 22,755 SF REQUIRED
	67,966 SF OPEN SPACE PROPOSED
	- PARKING
	27 SPACES PER 3 BEDROOM UNITS
	12 UNITS = 28 PARKING SPACES
	UNITS 1-4, TWO SPACE PER UNIT AT GARAGES
	& ONE ADA PARKING SPACE
	UNITS 5-12, TWO SPACES BELOW EACH UNIT
	- SETBACKS
	FRONT AT OVERSEAS HWY 30'-0"
	WATER SIDE 20'-0"
	MANGROVE SIDE 20'-0"

LANDSCAPE PLAN



**CITY OF MARATHON, FLORIDA
RESOLUTION 2024-25**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING A REQUEST BY UPHOFF INVESTMENTS LLC FOR A CONDITIONAL USE PERMIT, PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (“THE CODE”) ENTITLED “CONDITIONAL USE PERMITS”, AUTHORIZING THE DEVELOPMENT OF TWELVE (12) RESIDENTIAL UNITS AND ACCESSORY STRUCTURES; WHICH IS LEGALLY DESCRIBED AS SECTION 5 TOWNSHIP 66 RANGE 33 FAT DEER KEY PART LOTS 1-2, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00100260-000000. NEAREST MILE MARKER 53.

WHEREAS; Uphoff Investments LLC (The “Applicant”) filed an Application on December 28, 2023 for a Conditional Use Permit pursuant to Chapter 102, Articles 13 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS; the Applicant has proposed to the development of eight (8) Single Family Residential Units, a four-plex (4) Multifamily Unit and Accessory Structures; and

WHEREAS; the Applicant must obtain twelve (12) market rate residential allocations to be transferred via the Transfer of Building Rights (TBR’s), BPAS process, or any other legally established process prior to building permit issuance. THE APPROVAL OF THE REQUESTED CONDITIONAL USE PERMIT DOES NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF ANY AFFORDABLE RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT.

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

WHEREAS; on the 26th day of February 2024, 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 12th day of March, 2024 the City Council (the “Council”) conducted a properly advertised public hearing (the “Public Hearings”) regarding the request submitted by the Applicant,

for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

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

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

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

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

Section 2. The City Council hereby approves Development Order 2024-01, a copy of which is attached hereto as Exhibit “A”, granting a Conditional Use Permit to Uphoff Investments, LLC subject to the Conditions imposed. The Director of Planning is authorized to sign the Development Order on behalf of the City.

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

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 12TH DAY OF MARCH 2024.

THE CITY OF MARATHON, FLORIDA

Robyn Still, Mayor

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

Diane Clavier, City Clerk

(City Seal)

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

Steve Williams, City Attorney

**CITY OF MARATHON, FLORIDA
CONDITIONAL USE
DEVELOPMENT ORDER # 2024-01**

CONSIDERATION OF A REQUEST BY UPHOFF INVESTMENTS LLC FOR A CONDITIONAL USE PERMIT, PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (“THE CODE”) ENTITLED “CONDITIONAL USE PERMITS”, AUTHORIZING THE DEVELOPMENT OF TWELVE (12) RESIDENTIAL UNITS AND ACCESSORY STRUCTURES; WHICH IS LEGALLY DESCRIBED AS SECTION 5 TOWNSHIP 66 RANGE 33 FAT DEER KEY PART LOTS 1-2, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00100260-000000. NEAREST MILE MARKER 53.

WHEREAS; Uphoff Investments, LLC (The “Applicant”) filed an Application on December 28, 2023 for a Conditional Use Permit pursuant to Chapter 102, Articles 13 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS; the Applicant has proposed the development of eight (8) Single Family Residential Units, a four-plex (4) Multifamily Unit and Accessory Structures; and

WHEREAS; the Applicant must obtain twelve (12) market rate residential allocations to be transferred via the Transfer of Building Rights (TBR’s), BPAS process, or any other legally established process prior to building permit issuance. THE APPROVAL OF THE REQUESTED CONDITIONAL USE PERMIT DOES NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF ANY AFFORDABLE RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT

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

WHEREAS; on the 26th day of February 2024, 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 12th day of March, 2024 the City Council (the “Council”) conducted a properly advertised public hearing (the “Public Hearings”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

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

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

FINDINGS OF FACT:

1. The applicant will redevelop the project site as set out in the project site plan allowing the Applicant to develop eight (8) Single Family Residential Units, a four-plex (4) Multifamily Unit and Accessory Structures (See Approved Site Plan – Exhibit A” and all Plans otherwise provided and approved, or approved as revised, as part of the Applicant’s submittal):
2. In accordance with Section 102.77 of the Code, the Commission and Council considered and determined the Applicant met the following criteria:
 - a. The proposed use is consistent with the Comprehensive Plan and LDRs;
 - b. The proposed use is compatible with the existing land use pattern and future uses designated by the Comprehensive Plan;
 - c. The proposed use shall not adversely affect the health, safety, and welfare of the public; and
 - d. The proposed conditional use minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment; and
 - e. Satisfactory provisions and arrangements have been made concerning the following matters, where applicable:
 1. Ingress and egress to the property and proposed structures thereon with particular reference to automotive, bicycle, and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;
 2. Off-street parking and loading areas where required, with particular attention to item 1 above;
 3. The noise, glare or odor effects of the conditional use on surrounding properties;
 4. Refuse and service areas, with particular reference to location, screening and Items 1 and 2 above;
 5. Utilities, with reference to location and availability;

6. Screening and buffering with reference to type, dimensions and character;
7. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety and compatibility with surrounding properties;
8. Required yards and other open space;
9. General compatibility with surrounding properties; and

CONDITIONS IMPOSED:

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

Conditions of Approval

1. All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
2. 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 the stormwater management system prior to Building Permit Approval.
4. Applicants must obtain all outside agency approvals prior permit issuance and prior to project initiation.
5. A Final Landscape Plan must be submitted showing the proper treatments and buffers, including the appropriate treatment types and trees.
6. A Final Site Plan must be submitted showing the buildings meeting the required setbacks, parking locations, and access drives.
7. A sewer flow estimate from an engineer will be required to reassess any additional impact.
8. City approval of the connection to the City Wastewater Utility will be required.
9. The project exceeds 1 acre of development, and as such an FDEP general permit for NPEDS will be required.
10. Any native vegetation removed must be mitigated per Section 106.10.
11. The private yard area for rooftop balcony dwelling is provided by the roof or balconies of the structure.
12. 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.
13. 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.
14. 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.
15. The Applicant must obtain and transfer twelve (12) market rate housing units, to be transferred via the Transfer of Building Rights (TBR's), BPAS process, or any other legally established process prior to building permit issuance. THE APPROVAL OF THE REQUESTED CONDITIONAL USE PERMIT AMENDMENTS DO NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF ANY RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT.
16. The Conditional Use Development Order will constitute the Certificate of Concurrence for the

- project. The determination will be valid for one year.
17. Final site plan must show bicycle racks.
 18. Final site plan must include screened dumpster pursuant to Section 107.39.

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 _____, 2024.

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 Uphoff Investments LLC, 4900 W Hundred Rd, Chester, VA 23831 this ___ day of _____, 2024.

Diane Clavier City Clerk

EXHIBIT "A": Site Plan

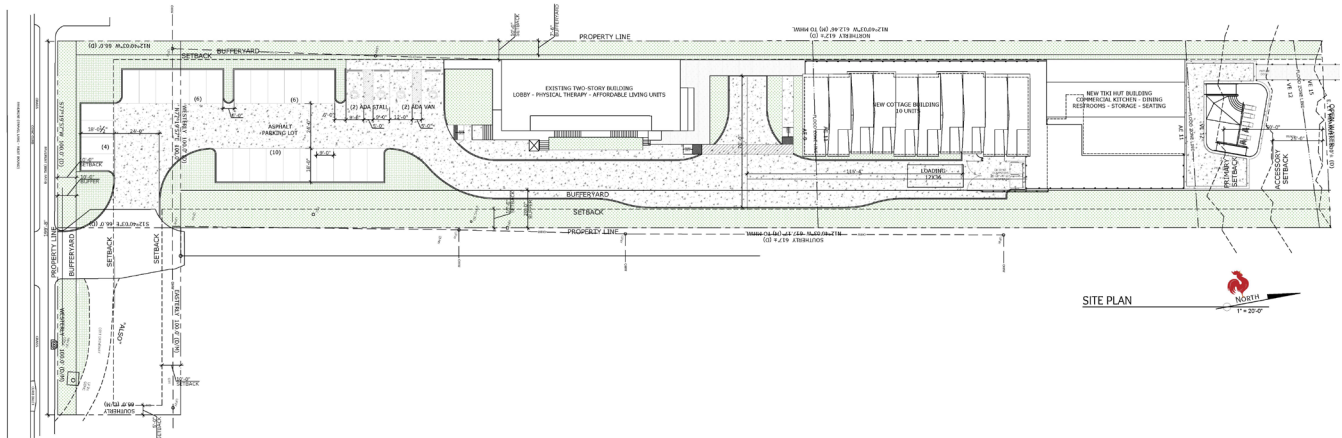
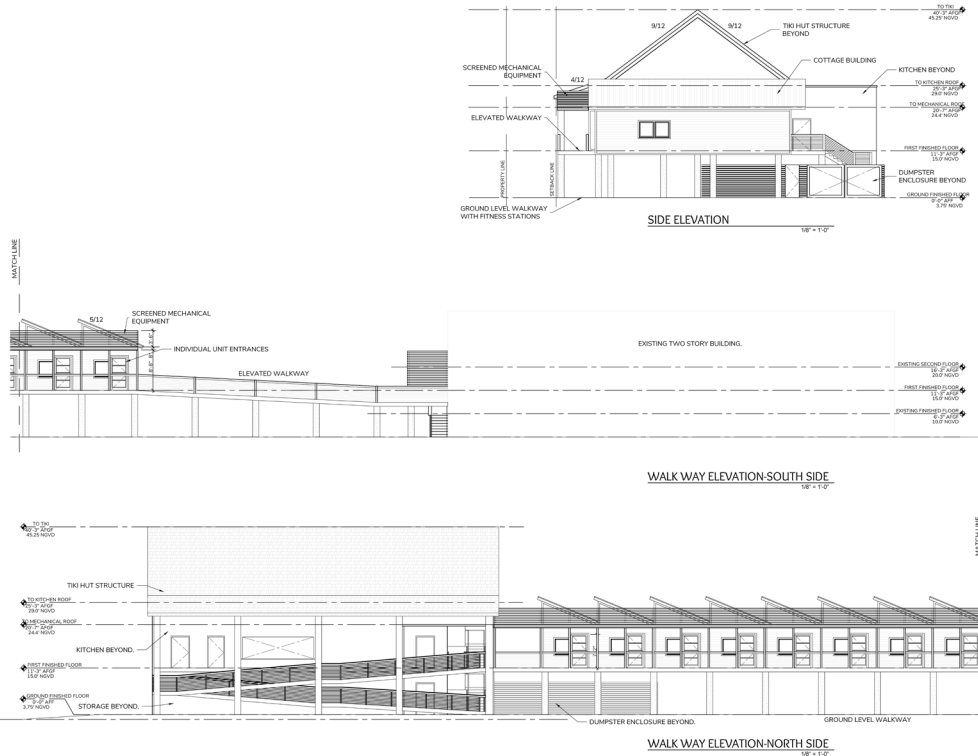


Exhibit "B": Elevation Plan



EXTERIOR ELEVATION

BRAVO ZULU

14 125TH STREET
MARATHON, FL 33005



LITTLE RED ROOSTER

Your Vision • Our Passion
www.LiRedRooster.com

PLOTTED
Friday, July 7, 2023 4:06:07 PM
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A-3.00

LRR PROJECT NO. 23005
DATE: 07/07/2023
ORIGINAL SIZE: 24x36