



**City of Marathon City Council Agenda
Marathon Council Chambers, 9805 Overseas Hwy., Marathon
Tuesday, June 11, 2019 5:30 P.M.**

- 1. Call to Order**
- 2. Pledge of Allegiance**
- 3. Roll Call**
- 4. Approval of agenda and consent agenda** [Approval of Consent Agenda passes all routine items indicated by asterisk (*). Consent Agenda items are not considered separately unless a council member so requests. In the event of such a request, the item is returned to the Regular Agenda.]
- 5. City Council Items**
 - *A. Approval of Minutes1
 - B. 33rd Street Project Discussion (Councilmember Zieg)
 - C. Community Announcements14
 - D.
- 6. City Manager Report**
 - A. Five Year Service Award, Amanda Riley
 - B. Review of Vacation Rental Fees (Resolution 2016-46).....15
 - C. Park and Recreation Report.....18
 - D. Monroe County Sherriff’s Office, Marathon Substation Report.....22
 - E.
- 7. Citizens' comments on agenda items not scheduled for public hearing and items other than those appearing on the agenda** [Those who have signed in will be given the first opportunity to speak. Time is limited to 2 minutes per speaker and 30 minutes total time for this agenda item.] **TIME CERTAIN TO 6:30 PM OR AS SOON AS POSSIBLE THEREAFTER OR AT THE CONCLUSION OF ALL COUNCIL BUSINESS; WHICHEVER OCCURS FIRST.**
- 8. Quasi Judicial Public Hearing** - Please be advised that the following items on the agenda are quasi-judicial in nature. If you wish to comment upon these items, please inform the Clerk by filling out the available sign-up form. An opportunity for persons to speak on the items will be made available after the applicant and staff has made their presentations on the items. All testimony, including public testimony and evidence, will be made under oath or affirmation. Additionally, each person who gives testimony may be subject to cross-examination. If you refuse either to be cross-examined or to be sworn, your testimony will not be considered. The general public will not be permitted to cross-examine witnesses, but the public may request the Council to ask questions of staff or witnesses on their behalf. Persons representing organizations must present evidence of their authority to speak for the organization. (Councilmember’s to communicate ex parte communication.)

A. Approving A Request By Holiday Inn Express & Suites For A Time Extension For Approvals Granted Pursuant To Resolutions 2014-105 And 2015-37 Pertaining To The Granting Of Twenty-Five (25) Transient Residential Units (TRUs) For A Project Approved By The City To Expand The Holiday Inn Express & Suites By A Total Of Twenty-Seven (27) Hotel Units Approved Pursuant To Resolutions 2014-61 And 2014-62 For A Conditional Use Permit And A Development Agreement Respectively; Providing That Said Conditional Use Permit And Development Agreement Were Approved For Time Extensions Pursuant To Resolutions 2017-47 And 2018-65; Providing That The Approval Of This Resolution Makes The Approved Time Frames For The Conditional Use Permit, Development Agreement And The Allocation Of Transient Residential Units (TRUs) Contemporaneous; Providing That Said Extension Request Is Issued For Property Which Is Legally Described As Part Of Government Lot 2, Fat Deer Key, Monroe County, Florida, Having Real Estate Numbers 00100260-000100 And 00100260-000102.....29

B. Resolution 2019-60, Consideration Of A Request For A Conditional Use Permit For Coral Construction Company Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (Code) Entitled “Conditional Use Permits” For The Development Of A Property Into Affordable Housing, Outdoor Storage Yard, And Commercial Office Space; Located At 347 Aviation Boulevard; Which Is Legally Described As A Tract Of Land In A Part Of Sections 1 And 2, And Containing Lots 11, 12, 13, 14, 15, And A Portion Of Lots 10 And 16, Schmitt Subdivision, Township 66 South, Range 32 East, Key Vaca, Monroe County, Florida; Having Real Estate Numbers 00101300-000000 & 00101360-000000, Nearest Mile Marker 51.....33

C. Resolution 2019-61 Consideration Of A Request For A Conditional Use Permit For Captain Pips Holdings, LLC Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (Code) Entitled “Conditional Use Permits” For The Development Of A Property Into Multifamily Housing, Office And Restaurant, And Marina; Located At 1470 Overseas; Which Is Legally Described As Part Of Government Lot 2 And Bay Bottom North Of And Adjacent To Lot 2 And Adjacent Portion Of State Road 4-A, Part Of Government Lot 2 In Rear Of Hanley’s Inc, And Block 3 Part Of Lot 3 And Government Lot 2 W R Thompson Subdivision, Section 9, Township 66 South, Range 32, Key Vaccas, Monroe County, Florida; Having Real Estate Numbers 00320350-000000, 00102790-000000, & 00102760-003000, Nearest Mile Marker 48.....59

D. Resolution 2019-62 Consideration Of A Request For A Conditional Use Permit For Midway Specialty Care Center, Inc. Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (Code) Entitled “Conditional Use Permits” For The Development Of A Medical Clinic; Located At 11400 Overseas Highway Units 103 & 104; Which Is Legally Described As Lots 2, 17, And 18 Less The Southerly Seven Feet And Half Vacated Alley, Key Colony Subdivision, Key Vaca, Monroe County, Florida; Having Real Estate Number 00334860-000000, Nearest Mile Marker 53.....88

9. Ordinances for First Public Hearing

A. Ordinance 2019-11, Amending Section 18-125 Of The City Code Regarding Civil Penalties For The Possession Of Cannabis (Marijuana) For Amounts Under 20 Grams And For Possession Of Drug Paraphernalia; Clarifying The Citation Procedure; Establishing A New Procedure To Contest A Citation; Providing For Severability; Providing For The Repeal Of All Ordinances Inconsistent Herewith; And Providing An Effective Date.....104

10. Resolutions for Adoption

***A. Resolution 2019-63**, Approving A Two Year Extension To The Agreement Between The City Of Marathon And Keefe, McCullough & Co., LLP For Auditing Services; Authorizing The City Manager To Expend Budgeted Funds On Behalf Of The City; And Providing For An Effective Date.....110

***B. Resolution 2019-64**, Approving A Memorandum Of Understanding (MOU) Between The Monroe County School District Division Of Career And Technical Education (MCSD) And The City Of Marathon, Florida, Creating MCSD’s Fire Academy At Marathon High School To Provide Fire Fighting Training To High School And Adult Students; and Providing For An Effective Date.....122

- 11. Citizens' comments** [2 minutes per individual - Each individual has one opportunity to speak.]
- 12. Council comments**
- 13. Adjournment**

The public hearings will commence at 5:30 p.m., or as soon thereafter as business permits, in the City Hall Council Chambers, 9805 Overseas Highway, Marathon, FL. All interested persons are invited to attend the meeting and participate in the discussion; or, written comments may be sent to the City of Marathon, c/o City Clerk, 9805 Overseas Hwy, Marathon, FL 33050. Pursuant to Section 286.0105, Florida Statutes, if a person decides to appeal any decision made by the City Council with respect to any matter considered at such hearing or meeting, one will need a record of the proceedings and for such purpose that person may need to ensure that a verbatim record of the proceedings is made; such record includes the testimony and evidence upon which the appeal is to be based. ADA Assistance: Anyone needing special assistance at the City Council hearing due to disability should contact the City of Marathon City Attorney at (305) 289-4130 at least five days prior thereto. Please contact the City Clerk at clavird@ci.marathon.fl.us if you would like to receive any of the items on the agenda by email.

CALL TO ORDER - A Meeting of the City Council of Marathon, Florida was held on May 28, 2019 in the Marathon Council Chambers, 9805 Overseas Hwy., Marathon, Florida, Mayor Bartus called the meeting to order at 5:30 pm.

The Pledge of Allegiance was recited.

ROLL CALL - There were present:

Councilmember Luis Gonzalez

Councilmember Mark Senmartin

Councilmember Dr. Daniel Zieg

Vice Mayor Steven Cook

Mayor John Bartus, comprising a quorum

Also in attendance were:

Planning Director George Garrett

City Attorney, David Migut

City Clerk, Diane Clavier

Finance Director Jennifer Johnson

Growth Management Director, Doug Lewis

Public Works Director, Carlos Solis

Utility Director, Dan Saus

Captain Don Hiller, Monroe County Sheriff's Office

Marina Director, Sean Cannon

Fire Chief John Johnson

Approval of Agenda and Consent Agenda

Gonzalez added June 4th Council Workshop Postponement Discussion, Garrett removed Five Year Service Award for Amanda Riley, which will be on the next agenda, Garrett added Legal Invoices and Aviation – US1 Intersection Improvement Update under City Manager Report.

MOTION: Cook moved to approve the agenda as amended.

SECOND: Zieg

With no objection from the members of Council, Mayor Bartus declared the motion approved by unanimous consent.

City Council Items

* Approval of Minutes

* Permission to hold the 39th Annual Bridge Run on March 28, 2020

Land Authority (Councilmember Zieg) – Zieg explained at the last Council meeting Senmartin made a comment that Monroe County was buying the building rights off buildable lots in the unimproved Monroe County area. He went on to explain, as it turns out the Land Authority is actually doing this and they're willing to do so within the incorporated areas of Monroe County. He asked Garrett to elaborate on the subject.

Garrett explained the Land Authority is seeking out residents who wish to buy land directly next door to their current property and in turn they would buy the building rights off the land, making the land unbuildable in future.

Bartus asked Council if this is something they would like to pursue like the County has done.

Zieg stated he was interested in asking the Land Authority to pursue it within the City of Marathon for those residents interested in giving up their building rights and also mentioned the building height measurement point needs to be readdressed.

All five councilmembers gave a head nod for staff to pursue further.

Increase of Maximum Building Height Discussion (Councilmember Senmartin)

Senmartin explained Council and Staff have been talking about raising the building height for a long time as a way to address the flood issues, new flood maps and additional freeboard space. Senmartin stated he feels Council needs to re-examine the definition of "building height". He spoke on the additional 3ft living space that a building height increase could give.

Zieg stated he has spoken with a number of residents and they are not interested in additional building heights.

Garrett explained how the maximum building height is measured and stated freeboard space requirements will get the City points with the Community Rating System (CRS).

Cook questioned how this would affect insurance rates?

Garrett explained FEMA is looking at the base flood and 2-3' freeboard space would qualify for reductions in insurance.

Senmartin stated it was suggested by the Workforce Housing Committee to go up a couple of feet to allow for parking, units over businesses and higher density.

Joshua Mothner spoke on the freeboard change and gave examples of his concerns of non-conforming FEMA issues.

Bartus thanked Mothner and stated there's nothing Council can do until they review the new flood maps.

Community Announcements were read by the Clerk.

Gonzalez added Marathon High School Graduation on May 30th at the MHS Fine Arts Center at 7pm.

City Council June 4th Workshop Postponement Discussion (Gonzalez)

Gonzalez explained he has spoken with several contractors since the last meeting and feels to make it a productive meeting Council needs to have all their data together, including the building impact fee study results. He thanked the City Manager for putting together a program for the Council for Contractor issue resolution. The process will have complaints forwarded to the City Manager, so they can be vetted and given to the appropriate staff member to handle and a response will be given to the Contractor and Council.

Senmartin commented that the workshop isn't just about building permit or impact fees. He stated the workshop could also include general items, such as policy and contractor issues.

Zieg agreed with Gonzalez and felt he was on the right track. He stated we need more information so the workshop doesn't become a general complaint session.

Cook agreed that Council needs data to have a productive workshop.

Senmartin stated the workshop is optional attendance for Council.

Gonzalez stated it would best serve the Contractors of the Community for the Council to come prepared and have information to give them at the workshop, which at this point, he stated the council does not have.

Bartus commented that back in the earlier days of the City's incorporation, there were a lot of workshops with public input and the goal was to have a very user friendly Planning and Building Department. He stated he's very optimistic about the new procedures with contractor complaints, and would like to hold the workshop to discuss other matters and have a separate workshop for building fees.

MOTION: Gonzalez moved to cancel the June 4th Workshop

SECOND: Zieg

Vote of the Motion:

Yes: Gonzalez, Zieg, Cook

No: Senmartin, Bartus

Absent: None

Abstain: None

Vote on the Motion: 3 Yes, 2 No, 0 Absent, 0 Abstain

Chris Gratton, President Florida Keys Contractor Association, agreed with Council on delaying the workshop until there is more information.

City Manager Report

Draft Budget Calendar

Johnson provided an overview of the draft budget calendar of workshops and meetings to Council.

Report on Breakout of Number of Temporary Placement Structures

Lewis provided a report to Council explaining during the last pass through the City is down to approximately 60 temporary trailers, but since his staff is not allowed into closed off yards, it has been hard to get an accurate count. He explained his department is proposing to send out letters to property owners with trailers hooked-up, asking them to come into City Hall and provide information to the City on the trailer, so they can make a determination.

Senmartin stated we want to do the right thing with the displaced residents, but there are people using their trailer for vacation rentals or for-profit rentals. He stated that he would like to see action taken, but would like to help people who are trying to make progress to get back into their home.

Cook recalled the temporary trailer extensions were only issued to people who were working on repairs or stuck in a legal or insurance process and the people who had not checked-in with the City were going to be noticed to the Code Department.

Bartus stated the City just issued another 90 day extension and stated Council should give Lewis the power to go after the non-permitted trailers.

Lewis stated he will come back to Council with another report.

Wastewater Utility Report

Saus provided highlights from his report, stating the service area 3 plant has been in high use, there will be odor upgrades to several plants and the 39th Street stormwater project is underway.

Senmartin asked Saus to look into repairing the valve patchwork in the road on 107th Street a little bit better as it is a hazard.

Saus stated he was not aware of the issue, but would reach out to the contractor who performed the work.

Zieg asked if the source of the high usage at service area 3 plant has been identified.

Saus replied no, but the new monitoring system will assist in the process, if it's in the buffer tank. He stated he will request the flows from the Aqueduct Authority and create spreadsheets to compile and sort through the data.

Cook questioned if there is any benefit to having a buffer system at Isa Bella Resort on Knight's Key to the slow down the rate of flows into Service Area 3?

Saus replied he doesn't feel the problem is coming from Isa Bella Resort.

Legal Invoices

Migut read into the record a statement regarding the 300 new affordable housing allocations made available to Marathon that have been challenged. Migut explained outside Counsel was retained and the workload has since increased. Migut requested a motion to request advance authorization for payment of the current and future legal invoices to the Smith Hawks law firm in an amount not to exceed \$200,000. Migut explained he does not anticipate the total costs to exceed the \$200,000, but if they do, he would need to come back before Council for additional authorization.

MOTION: Senmartin moved to approve, but not to exceed the \$200,000 for legal invoices to Smith Hawks law firm.

SECOND: Cook

Vote of the Motion:

Yes: Senmartin, Cook, Gonzalez, Zieg, Bartus

Absent: None

No: None

Abstain: None

Vote on the Motion: 5 Yes, 0 No, 0 Absent, 0 Abstain

Aviation / US1 Intersection Improvement Update -

Solis explained the final layout of the road plan that FDOT provided and spoke on the minor correction submitted to FDOT with regard to the bubble on the median on 73rd Street to be removed and the median to be cut back the back an additional 20 feet to provide space for vehicles towing boats to make a left turn onto US1. Solis stated construction is anticipated to start in August of this year.

Senmartin asked Solis to speak on the back part of the road.

Solis stated the notice to proceed from FDOT has been received to rebid the Aviation project, the bid will go out on 5/29/19 for thirty days and will come back to Council at the first meeting in July to award the contract.

Citizens' Comments:

Diane Scott – Spoke on the local law enforcement and stated they do not follow the constitution or civil rights laws.

Quasi-Judicial Public Hearing:

Resolution 2019-46, Approving A Request By Grassy Key Resort Group, LLC For A Conditional Use Permit, Pursuant To Chapter 102, Articles 13 Of The City Of Marathon Land Development Regulations (LDRS) Entitled “Conditional Use Permit” Seeking Authorization For The Redevelopment Of An Existing Hotel Resort And Commercial Uses On Property Located At 58070 And 58182 Overseas Highway, Which Is Legally Described As Township 65, Section 24, Range 33; Bk 36 Lots 1-2-3-4, Pt Lots 5-6 (Parcel A) And Westerly 15ft Unnamed St Adjacent Lot 1 Res B-C-C 8/11/61 And Adjacent Portion Of Flagler Street And Grassy Key Bay Bottom Adjacent Lots 1-2-3, Lot 12 And Pt Lot 13 In The Crains Subdivision, Grassy Key, Marathon, Florida: Having Real Estate Numbers 00370940-000000 And 00371060. Nearest Mile Marker 58.5.

Resolution 2019-47, Approving A Request By Grassy Key Resort Group, LLC For A Development Agreement, Pursuant To Chapter 102, Articles 8 Of The City Of Marathon Land Development Regulations (LDRS) Entitled “Development Agreement” Seeking Authorization For The Redevelopment Of An Existing Hotel Resort And Commercial Uses On Property Located At 58070 And 58182 Overseas Highway, Which Is Legally Described As Township 65, Section 24, Range 33; Bk 36 Lots 1-2-3-4, Pt Lots 5-6 (Parcel A) And Westerly 15ft Unnamed St Adjacent Lot 1 Res B-C-C 8/11/61 And Adjacent Portion Of Flagler Street And Grassy Key Bay Bottom Adjacent Lots 1-2-3, Lot 12 And Pt Lot 13 In The Crains Subdivision, Grassy Key, Marathon, Florida: Having Real Estate Numbers 00370940-000000 And 00371060. Nearest Mile Marker 58.5.

The clerk swore in speakers. Council stated they had no ex parte communications.

Garrett explained both the Conditional Use and Development Agreement for the Project known as Grassy Flats were heard at the previous Council Meeting and are seeking approval.

MOTION: Zieg moved to approve Resolution 2019-46.

SECOND: Cook

Mayor Bartus called for public comments; hearing none closed comments.

Vote of the Motion:

Yes: Zieg, Cook, Senmartin, Gonzalez, Bartus
No: None
Absent: None
Abstain: None

Vote on the Motion: 5 Yes, 0 No, 0 Absent, 0 Abstain

MOTION: Cook moved to approve Resolution 2019-47.

SECOND: Zieg

Mayor Bartus called for public comments; hearing none closed comments.

Vote of the Motion:

Yes: Cook, Zieg, Senmartin, Gonzalez, Bartus
No: None
Absent: None
Abstain: None

Vote on the Motion: 5 Yes, 0 No, 0 Absent, 0 Abstain

Consideration Of A Request For A Conditional Use Permit And Development Agreement For 1477 Overseas Highway LLC And Seasons Inc., Pursuant to Chapter 102, Articles 8 & 13 Of The City of Marathon Land Development Regulations (Code) Entitled "Conditional Use Permits" And "Development Agreements," For The Redevelopment Of The Properties As An Affordable Mobile Home Park, Located at 1477 Overseas Highway And 263 15th Street, Which Are Legally Described As The North 150 Feet of Lot 1 and 2, Part of Lots 1 and 2, Block 2 , Parrish Subdivision, Marathon, Florida, Having Real Estate Numbers 00326770-000000 and 00326760-000000. Nearest Mile Marker 48.

The clerk swore in speakers. Council stated they had no exparte communications.

Garrett provided a PowerPoint presentation and explained the details of the project to Council. He pointed out the ingress/egress issues on the property, mostly pertaining to entering the property from US1. Garrett stated the project meets setbacks, landscape buffering, parking, etc. Garrett stated the applicant is requesting to be able to utilize the residential mobile home zoning in order to allow him to get two more units in the property. Garrett explained they do not have the allocations, but may be able to substitute market rate allocations and would seek the affordable allocations as the City moves through the 300 unit issue.

Bartus questioned if the RMH zoning gives the right to put mobile homes on the property?

Garrett responded yes, it could. The developer would have to come back before Council with a Conditional Use Request for a mobile home park if that were the case.

Bartus questioned why the affordable deed restriction is at 50 years instead of 99 years?

Garrett explained the 99 year language is not in the Code, but that is typically what has been used with the interlocal agreements with the County.

Bartus stated he would like to see the 99 year language as one of the conditions for this project and in the future, discussions about putting the 99 year term in the Code.

Gonzalez questioned if the property is currently zoned for eight units and if the developer is asking for an additional two units and asked why the developer is not changing the zoning?

Garrett replied it would be a possibility to change the zoning, if and when Old Town Marathon shifted into commercial, it would leave the option open to him.

Gonzalez clarified if the developer could take the units and put them someplace else in the future and remain affordable.

Garrett stated Council would have to approve, but yes that would be an option.

Zieg stated in the current zoning the developer is only allowed eight units, so the request is for up zoning, and questioned rezoning the MU to RMH. He stated Council shouldn't allow the up zoning for the Developers cost benefit. He stated the drawings submitted are vague and there's no way to tell what the project is actually going to be.

Senmartin asked Lewis to speak.

Clerk swore in Lewis.

Senmartin questioned if there are any open code cases on the property?

Lewis stated there are no code cases on the property currently.

Senmartin stated he did not see any permits to demo the slab and there is fill on the site without permits.

Lewis stated he was not aware of the slab demo and thought there was a permit for the fill.

Senmartin did not agree with the RMH zoning and would like to see the two lots adjoined together, and stated the stormwater retention seemed inaccurate. He expressed issues with the landscape buffer on the outside portion of the property, the 20 % of property with open space, street trees & proximity of the buildings being 10ft apart.

Garrett stated the street trees would be dealt with as buffer requirements. There would be buffers along US1 and 15th Street. Garrett also addressed the proximity of buildings and stated there would be a discussion to build duplexes. He stated there would not be an issue with separation between the buildings with five duplexes, equaling ten units.

Senmartin questioned what the total number of units is on the property.

Garrett replied eight total units.

Senmartin stated he is not in agreement with the zoning.

Cook expressed concerns about the properties not being within 10ft of each other and said the fire rating language was confusing.

Garrett explained the developer could put in fire rated walls.

Cook stated he does not support more permanent RV's in the City.

Garrett stated the new homes today must meet Florida Building Code.

Cook stated he does not like the zoning and stated the FLUM Map is not conforming.

Michael Aranda, Developer for the project, addressed several concerns, the wall at the front of the property he stated was intended to be a fence with a buffer to help move the small congregation of people who gather there along. He stated FDOT believes the Monroe County Sherriff's Office has the ability to ask people to not congregate there. Aranda stated permits were pulled to demolish the building and remove the slab and a permit was pulled for the fill. He stated he's trying to get the property cleaned up and ready for the future growth of Old Town Marathon. He's requesting an additional two units, so he can keep the units affordable and duplexes make it possible to have the 10ft. separation.

Mayor Bartus called for public comments; hearing none closed comments.

MOTION: Senmartin moved to deny the project.

SECOND: Zieg

Bartus stated he supports the concept of up zoning for affordable units.

Vote of the Motion:

Yes: Senmartin, Zieg, Gonzalez

No: Cook, Bartus

Absent: None

Abstain: None

Vote on the Motion: 3 Yes, 2 No, 0 Absent, 0 Abstain

Ordinances for First Public Hearing

Ordinance 2019-10, Amending The City's Comprehensive Plan To Modify Or Add To Its Conservation And Coastal Element, Goals Objectives, And Policies To Comply With Florida Statute 163.3178(2)(F) "Peril of Flood"; Intending To Modify, "Purpose;" Goal 4-1, "Conserve,

Manage, Use, And Protect Natural And Environmental Resources;" Policy 4-1.3.3, "Surface Water Management And Flood Damage Prevention;" And Objective 4-1.17, "Minimum Coastal Hazards;" And Intending To Add Policies To Include Policy 4-1.17.8, "Strategies For Responding To Sea Level Rise;" Policy 4-1.17.9, "Flood-Resistant Development Requirements;" Policy 4-1.17.10, "Extreme Weather Event Mitigation;" And Policy 4-1.17.11, "Best Practices And Mitigation Strategies;" And Finally, Intending To Modify Objective 4-1.22, "Reduce Exposure To Natural Hazards," Policy 4-1.22.5, "Manage Redevelopment Activities; And Policy 4-1.22.8, "Regulate Redevelopment Of Non-Conforming Structures To The Required Base Flood Elevation;" Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity After The First Hearing By The City Council; And Providing For An Effective Date.

Garrett provided a PowerPoint presentation on the FDEP grant, explained the Ordinance, provided background information and went over the requirements.

Bartus thanked staff for putting everything together and working hard and gathering the data.

Senmartin thanked George and liked the Ordinance, but would add a condition to make it for all development, not just redevelopment.

Bartus spoke on freeboard.

Mayor Bartus called for public comments; hearing none closed comments.

MOTION: Senmartin moved to approve Ordinance 2019-10 with the change that we add in for future development the word all development not just redevelopment.

SECOND: Gonzalez

Vote of the Motion:

Yes: Senmartin, Gonzalez, Zieg, Cook, Bartus

No: None

Absent: None

Abstain: None

Vote on the Motion: 5 Yes, 0 No, 0 Absent, 0 Abstain

Garrett stated he will transmit the Ordinance to the Department of Economic Opportunity and it will come back to Council in the middle of August or September.

Bartus expressed the importance of thinking about freeboard.

Resolutions for Adoption

***A. Resolution 2019-48** Consideration Of A Request To The City Council Of The City Of Marathon, Florida To Release Funds In The Amount Of \$300,000 To First Tropical Getaways, Inc and Marathon Rentals, LLC; Said Funds Are Held By A Local Attorney Pursuant To Conditions

And Requirements Promulgated In Resolutions 2015-123 and 2017-94; The Terms For The Release Of Said Funds Is Similarly Prescribed Under each Development Agreement; And Providing For An Effective Date.

***B. Resolution 2019-49** Authorizing A “Piggy-Back” Purchase Pursuant To The City’s Purchasing Policies And Procedures And Approving The Purchase of a 600 KW Trailer Mounted Emergency Generator, Under The Florida Sheriff’s Bid FSA18-VEH16.0 Specification #79 From Mid Florida Diesel, In An Amount Not To Exceed \$208,785.00; Authorizing The City Manager To Enter Into Agreements In Connection Therewith, And Expending Budgeted Funds; And Providing For An Effective Date

***C. Resolution 2019-50** Authorizing A “Piggy-Back” Purchase Pursuant To The City’s Purchasing Policies And Procedures And Approving The Purchase of a Ford F250 Utility Body, Under The Florida Sheriff’s Bid 2019-120716-NAF From Alan Jay Fleet Sales, In An Amount Not To Exceed \$36,589.50; Authorizing The City Manager To Enter Into Agreements In Connection Therewith, Appropriating And Expending Budgeted Funds; And Providing For An Effective Date

***D. Resolution 2019-51**, Awarding contract for the Service Area 3 to 4 Influent Re-Pump Design and Construction Engineering Services and Area 3 Pre-Treatment Construction Engineering Services To Weiler Engineering Corporation.; Approving Contract in the Amount of \$110,770.00; Authorizing The City Manager To Execute The Contract, Appropriating and Expending Funds On Behalf Of The City; And Providing For An Effective Date. (This work qualifies and will be submitted for reimbursement through the LP44041 FDEP Grant when the project is complete. The Construction of this project may be eligible for future ACOE grant funding.)

***E. Resolution 2019-52** Approving A First Amendment To The Agreement Between The City Of Marathon And James (Jack) Bridges For Code Enforcement Special Magistrate Services And Providing For An Effective Date

***F. Resolution 2019-53**, Revising Development Order 2016-12 To Include Administrative Revisions Concerning Changes In Ownership And Minor Changes In Conditions That Will More Accurately Reflect The True Conditions Of Upcoming Construction Approvals; For A Project Now Owned By Marathon Key Housing Partners, LP For A Conditional Use Permit Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (LDRs) Entitled “Conditional Use Permits”, Authorizing The Development Of Fifty-Five (55) Multifamily Affordable Housing Units On Properties Located At 4800 Overseas Highway, Which Are Legally Described As Part Of Lot 1 Formerly Overseas Highway, As Well As Part Of Lot 1, Part Of Lot 2, Part Of Lot 3, Part Of Lot 4, Part Of Lot 4 (Parcel A), & Adjacent Bay Bottom Of Thompson & Adams Subdivision, Key Vaca, Monroe County, Florida, Having Real Estate Numbers As Listed in the Resolution. Nearest Mile Marker 50

***G Resolution 2019-54**, Approving The Second Amendment To The Interlocal Agreement (ILA) Between The City Of Marathon And Monroe County Transferring Affordable Housing Residential Dwelling Unit Allocations For An Approved Project In The Current Ownership Of Marathon Key

Housing Partners LP; Said Ila Originally Approved Pursuant To City Resolution 2016-113 And Subsequently Amended Pursuant To Resolution 2019-27; The Subject Amendment Will Update Current Ownership In The Project And Add A Section Titled, "Owner's Right To Transfer; Performance By Recognized Mortgagee;" Said Project To Be Located Between 4700 And 4800 Overseas Highway, Marathon, Florida On Properties Including Real Estate As Stated in the Resolution; Rescinding Resolution 2017-107; And Providing For An Effective Date. Nearest Mile Marker 50

***H Resolution 2019-55**, Revising Development Order 2016-07 To Include Administrative Revisions Concerning Changes In Ownership And Minor Changes In Conditions That Will More Accurately Reflect The True Conditions Of Upcoming Construction Approvals; For A Project Now Owed By Crystal Cove Housing Partners, LP For A Conditional Use Permit Pursuant To Chapter 102, Articles 13 Of The City Of Marathon Land Development Regulations (LDRs) Entitled "Conditional Use Permits," Authorizing The Development Of A Twenty-Eight (28) Unit RV Park, Forty-Six Affordable Housing Units And 7,700 Square Feet Of Commercial Retail On Properties Located At And Adjacent To 4900 Overseas Highway; Real Estate Numbers 00327150-000000, 00327910-000000, 00327920-000000, 00327990-000000, 00328000-000000, 00328010-000000, 00328020-000000, And 00328030-000000. Nearest Mile Marker 50

***I Resolution 2019-56**, Approving The Second Amendment To The Interlocal Agreement (Ila) Between The City Of Marathon And Monroe County Transferring Affordable Housing Residential Dwelling Unit Allocations For An Approved Project In The Current Ownership Of Crystal Cove Housing Partners LP; Said Ila Originally Approved Pursuant To City Resolution 2016-125 And Subsequently Amended Pursuant To Resolution 2019-28; The Subject Amendment Will Update Of Current Ownership In The Project And Add A Section Titled, "Owner's Right To Transfer; Performance By Recognized Mortgagee;" Project In The Ownership Of Crystal Cove Market Site LLC (Formerly HTG Crystal Cove), To Be Located 4900 Overseas Highway, Marathon, Florida On Properties Including Real Estate Numbers As Listed In The Resolution; Nearest Mile Marker 50; Rescinding Resolution 2017-106; And Providing For An Effective Date.

***J. Resolution 2019-57**, Approving Minor Revisions To An Interlocal Agreement Between Monroe County And The City Of Marathon Transferring Affordable Housing Residential Allocation For A Project In The Name Of Multiple Corporations Including Callianasa Corp., Key Vaca LLC, Driftwood LLC, CB Schmitt Real Estate Company, Inc., And Twenty-Third Street, LLC, And Providing For An Effective Date.

***K. Resolution 2019-58**, Approving Minor Revisions To An Interlocal Agreement Between Monroe County And The City Of Marathon Transferring Affordable Housing Residential Allocation For A Project In The Names Of Seaward Landings LLC And Seaward Pointe LLC; And Providing For An Effective Date.

***L. Resolution 2019-59**, Approving The Release Of A Unity Of Title In The Name Of Jo-Jo's Of The Florida Keys, LLC As Recorded With The Monroe County Clerk Of Courts, Book 2469, Page 2156; And Providing For An Effective Date

Citizens' Comments:

Diane Scott spoke on putting the bus stop back to its original location.

Lott Pansky asked Council if Ordinance 2019-10 would affect Keys RV.

Bartus reminded everyone that Council's policies prohibit them from answering questions during Council comments and encouraged Mr. Pansky to talk to George Garrett directly.

Council Comments

Gonzalez thanked the staff for all they do, the Monroe County Sheriff's Department for their work, especially during this holiday weekend. He made a special thank you to the Fire Department for going above and beyond. He congratulated all of the class of 2019 graduates and their parents.

Senmartin congratulated all the graduates and mentioned his son will attending summer camp for a week with the boy scouts in Georgia this summer.

Zieg provided a history of dates and thanked Jennifer Johnson for her hard work on FEMA reimbursements and stated we recently received \$87,000 so we are up to \$330,000. He thanked Garrett and University for Florida for the Flood Compliance Ordinance Memorandum and thanked staff for prepping Council on all the issues they decided on. He also congratulated the graduates of 2019.

Cook thanked staff for keeping Council on track and getting the budget squared away for them to review. He thanked the Sherriff's Office and the Fire Department and gave a special shout out to Mike Card. He also congratulated the Class of 2019 graduates.

Bartus thanked staff, Sheriff's Department and Fire Department for their work. He Thanked Chuck Lindsey and Doug Lewis for a good meeting last Friday. He congratulated the graduates of 2019 and the Take Stock in Children program graduates. He mentioned Middle Keys Rotary was the first sponsor of a full four year scholarship.

ADJOURNMENT

With no further business to come before the Council, Mayor Bartus adjourned the meeting at 7:20pm by unanimous consent.

I certify the above represents an accurate summary of the regular Council meeting of May 28, 2019.

Hillary Palmer, Deputy City Clerk

Date

<u>SUBJECT:</u>	<u>DATE:</u>	<u>TIME:</u>	<u>LOCATION</u>
14 TH Annual Key Colony Beach Kids Fishing Derby	6/12		
Fishing Fun at Crane Point	6/14	6pm-8pm	Meet in the parking lot @5:45pm. Bait & poles provided.
Planning Commission Meeting	6/17	5:30pm	Council Chambers, 9805 Overseas Hwy.
Marathon Strides Walk Awards & Launch Party	6/18	5:30-7:30pm	The Stuffed Pig, 3520 Overseas Hwy.
Code Compliance Hearing	6/19	2:00pm	Council Chambers, 9805 Overseas Hwy.
Firefighter Pension Board Meeting	6/19	5:00pm	Marathon Fire Station #14, 8900 Overseas Hwy.
Fishing Fun at Crane Point	6/21	6pm-8pm	Meet in the parking lot @5:45pm. Bait & poles provided.
Council Meeting	6/25	5:30pm	Council Chambers, 9805 Overseas Hwy.
2019 Summer Camp	June 3 rd – August 9 th		Ages 5-13 at the Marathon Community Park. \$80 per week (\$20 discount applies for each additional family member). For more info contact Jaymie or Austin at the Park, 305-743-6598.

Sponsored by: Lindsey

**CITY OF MARATHON, FLORIDA
RESOLUTION 2016-46**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING AN AMENDMENT REVISING THE RATES FOR THE VACATION RENTAL FEE SCHEDULE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 8-12 (c)(4) of the Code of Ordinances states that the City Council shall create and may amend the fee schedule for vacation rental property licenses and vacation rental agent licenses by resolution; and

WHEREAS, the City of Marathon has instructed the City staff to provide ways in which the identification and regulation of vacation rentals can be improved; and

WHEREAS, the City staff has incurred the cost of a dedicated officer for the review and processing of applications, scheduling of inspections, internet search for illegal advertisements, and follow up of compliance with the Vacation Rental regulations; and

WHEREAS, the amount of vacation rentals have increased at a compelling rate over the past year. Consequently the associated processing, identification of illegal rentals, and violations has also increased; and

WHEREAS, the attached fees and rates were developed after much consideration, factual analysis of the increased costs and consultation with the City Manager.

NOW, THEREFORE, BE IT RESOLVED 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 City Council hereby approves the fees and rates for the issuance and renewal of vacation rental licenses attached hereto as Exhibit "A":

Section 3. The fees and rates for the issuance and renewal of vacation rental license fees will be reviewed annually and any amendments will be brought before the City Council.

Section 4. This resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 14TH DAY OF JUNE, 2016

THE CITY OF MARATHON, FLORIDA



Mark Senmartin, Mayor

AYES: Bartus, Kelly, Coldiron, Zieg, Senmartin
NOES: None
ABSENT: None
ABSTAIN: None

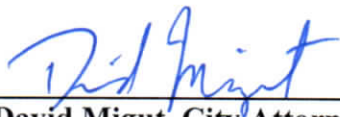
ATTEST:



Diane Clavier, City Clerk

(City Seal)

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



David Migut, City Attorney



CITY OF MARATHON, FLORIDA

9805 Overseas Highway, Marathon, Florida 33050
Phone: (305) 743-0033 Fax: (305) 743-3667

EXHIBIT A

City of Marathon Vacation Rental License Fees

Adjusted fees are as follows:

New Licenses: Includes new and upon transfer of ownership/ delinquent/ expired

Agent/Property Owner New License Fees

Includes one (1) Fire-inspection;
*Fire fees are based on occupancy

1. <u>1 bedroom*</u>	\$750.00	<u>\$1000.00</u>
2. <u>2 & 3 bedrooms*</u>	\$750.00	<u>\$1100.00</u>
3. <u>4 bedrooms & over*</u>	\$750.00	<u>\$1200.00</u>

Agent/Property Owner Annual Renewal Fees

Includes one (1) Fire-inspection;
*Fire fees are based on occupancy

1. <u>1 bedroom*</u>	\$500.00	<u>\$650.00</u>
2. <u>2 & 3 bedrooms*</u>	\$500.00	<u>\$750.00</u>
3. <u>4 bedrooms & over*</u>	\$500.00	<u>\$850.00</u>

Fire-re inspection: Each occurrence upon failure of included inspection \$150.00
Transfer of Agent Fee: ~~\$50.00~~ \$75.00

Additions shown by underline
Deletions shown by ~~strikethrough~~



CITY OF MARATHON PARKS AND RECREATION

9805 Overseas Highway, Marathon, Florida 33050
Phone: (305) 743-6598 Fax: (305) 289-5888

MEMORANDUM

Date: June 11, 2019
To: Honorable Mayor and City Council
From: Jimmy Schmidt, Parks and Recreation Director
Through: Chuck Lindsey, City Manager
Subject: Parks and Recreation monthly report

Parks Programs

Skate Park attendance has been low throughout the months of April and May. Attendance has remained on average from 4-8 skaters per night. Several groups of middle school-age youth hang around the park but do not skate. The park continues to be open nightly with an attendant present on occasion from 4-10pm. The park is open every morning around 8am and is without an attendant until 4pm. Routine maintenance continues to be performed, and ongoing tightening of screws, as well as watching for rotten ramps and boards is constant. Daily attendance records kept with an attendant present show average daily use numbers fluctuate between 1-6.

Adult Kickball is every Tuesday night at Community Park starting at 8pm. This is FREE, for ages 18+, and will run until the end of July. Join in at the Little League fields. Pick-up games are formed each week.

Adult Basketball is ongoing throughout the entire year. The Parks and Recreation Department offers this program one night a week throughout the spring. Pickup games are each Wednesday night from 7:00-9:30pm at Marathon High School gym. Cost per person for each session is \$5 per night or \$30 for the school year. This program is for adults age 18 and older. A total of 46 have registered for and attended the fall program. To date, Andre Garvey, park staff, organizes and runs this program. Nightly attendance averages 12-18 for the spring program. This program will run throughout the summer. Andre Garvey, P/R staff, runs this event.

Adult Volleyball is ongoing throughout the year and follows the same breaks as the Monroe County Schools calendar. Pickup games are on Monday nights from 7:00-9:30pm

and will continue to run throughout the summer at Marathon High School gym. Cost per person for each session is \$5 per night or \$30 for the season. This program is for adults age 18 and older. Nightly attendance averages between 12-18 players during the spring. Andre Garvey, P/R staff, runs the program. Kyrstyn Ransom, P/R staff, assists.

Home School PE is for all ages of children who are home-schooled and wish to participate in a weekly PE program. This program met on Tuesdays at 2pm for an hour each week during the school year calendar. An end-of-year prom was held with dancing and masquerade masks on May 17 at Community Park. Guests from the home school PE program in Key West also participated. This program was FREE. Austin Tubbs, Park Staff, organized and ran this weekly. Home School Tennis lessons were offered following the main program to any home-schooler in the main program. 43 youth registered and participated throughout the year. Ages ranged from 5-16. Average attendance for the sessions was 19. The program followed the Monroe County School Calendar year.

Roller Night took place Friday night, April 5, at Community Park's Basketball court. The program, which was from 7:30-9:30, hosted around 50 youngsters. Youngsters averaging between ages 4-9 skated the night away to music and also enjoyed sweets donated by Publix. Park staff served sno-cones and lemonade. A great time was had by all participants. Roller Night will begin again in fall 2019.

Earth Day Early Start was on Saturday morning, April 6, with the purpose of planting seeds to transplant on Earth Day two weeks later. Over 35 children showed up and planted sunflower, cucumber, and watermelon seeds. Also, attendees toured Phase I in Community Park to identify palm trees, coco plum bushes, gumbo limbo trees, and porter weed. Plant parts of the root, stems, leaves, flowers, and seeds were identified.

Under the Stars showed the movie *Grease* on Saturday, April 6. The movie began at dusk and those in attendance had the option of arriving and seeing the movie as a "drive-in" movie in their cars or as spectators in front seats. This was a free family movie at Community Park. Attendance was around 150. There were 27 who saw the movie from a car or truck. Zonta Club of Marathon sold concessions from the concession stand during the event. Charlotte Quinn, P/R staff, organized the movie.

Youth Tennis started in mid-April at the Marathon Community Park tennis courts. It ran until the end of the school year. Groups were divided by age and ability level and 45 signed up and learned skills of beginning tennis. Cost was \$40. Classes met twice a week. At the end of the program (the last week of May), all participants were given an age/size appropriate tennis racquet. The fall youth tennis program will begin the second week of September. Austin Tubbs, park staff, facilitates this program.

Little League, a parent-run organization, held games on Mondays, Wednesdays, and Fridays for baseball and on Tuesdays and Thursdays for softball. Saturday morning, which hosted t-ball games in Community Park, ended on Saturday, April 20. All other sport

groups ended the season on Friday, May 24 with an awards trophy. Caitrin Piscetello is the parent in charge of the league and can be reached at caitrin@hotmail.com

Start Smart Soccer started on Saturday, April 27, at Community Park. This was a beginning soccer program for ages 3-5 and involved parent assistance. The six-week program met each Saturday morning from 9-10am. The program was \$50 and reached its cap enrollment of 14. The program ended Saturday, June 1, and award medals were given out by program coordinators Andre Garvey and Genesis Villatoro.

Art in the Park was held in Community Park the morning of April 13 from 10am-noon. Arts and Crafts with baseball themes were offered for the children playing around the park while siblings played baseball. A total of 17 participants made sun catchers and other baseball-related crafts.

Earth Day activities were held at Community Park Main Pavilion on Monday evening, April 22, from 6-8pm. A selection of activities included decorating a sun-catcher of the earth, making a mosaic of the earth and what is valued there with construction paper and tissue paper, and planting seeds to take home (sunflower, watermelon). There were 32 children who participated in this activity.

Kids Night Out was on Saturday, May 18, at 6-9pm. Advanced registration was required, space was limited, and cost was \$5 per child. Children's activities included crafts, games, and movies. A total of 17 children participated.

Community-run Programs

Pops Stiglitz Co-ed Softball tournament was on the weekend of April 12-14. The organization had a home-run derby the night of April 12 and elimination games on the following Saturday and Sunday. Several thousand dollars were raised to go to local senior scholarships at Marathon High School. Park staff were present during the weekend activities.

Giant Easter Egg Hunt, hosted annually by Rotary Club of Marathon and the City of Marathon Parks/Recreation department, had a giant Easter Egg Hunt on Saturday morning, April 20, 10am at Rotary Park. Over 150 youngsters turned out to hunt for eggs, make arts and crafts, have refreshments, and have a photo made with Mr. Bunny.

Relay for Life took place at Community Park Soccer fields on Saturday, March 30. The event ran from 2-10pm. Due to a hot afternoon, crowds were less than hoped for. A Luminaria ceremony was after sunset. This was organized independently of the Parks department.

Seven Mile Bridge Run took place the morning of April 6. Park staff helped in the set-up and break-down of the event.

Upcoming Programs

Summer Fishing Fun is a Friday-night, free program being offered every Friday night in June (7, 14, 21, and 28) to give children the opportunity to advance their fishing skills. It will be from 6-8pm on Fridays at Crane Point shoreline and will run for 4 weeks. Ages 4-12. Older volunteers are welcome to assist children in developing these skills. Casting, baiting a hook with live bait, removing a fish from a hook, and rigging a pole with weights and hooks will be a part of the program. Also, children will learn about how to read an FWC chart on types of fish and the number allowed daily as well as how to measure a fish's length. Advanced registration is not required. All poles and bait will be provided. Ali Adams, P/R staff, is organizing this program.

Friday Night Kickball is a Friday-night free program being offered every Friday night in July (5, 12, 19, and 26) at Community Park from 7-8pm. This is a free program for ages 4-10 to encourage children to have fun while exercising during the hot days of summer.

Summer Camp will take place this summer for 10 weeks during Monroe County School's summer break. Camp will be on weekdays only from 8:30-4:30pm. Cost will be \$80 per camper with family discounts available. Out of town field trips will be taken twice weekly. The starting date is June 3. Registration and health forms are available on the City of Marathon's web page. Parents may register online and take care of payment (\$80/week with sibling discounts available) the first day of camp. Weekly registration is acceptable.



MONROE COUNTY SHERIFF'S OFFICE

RICHARD A. RAMSAY, SHERIFF

June 4, 2019

Marathon City Council

Ref: Monroe County Sheriff's Office
City of Marathon Monthly Report

Dear Council,

Enclosed report provided to keep the Council informed of the ongoing business within the City of Marathon addressed by the Sheriff's Office. Issues include arrest and major crimes, concerns for public safety, quality of life issues, Marine Unit, areas of concern, suggestions for crime prevention and community involvement.

Crime/Arrest Report:

New Cases:

19OFF002861: Aggravated Battery

Occurred: 41st Street, Marathon

Deputies responded to fight on 42nd St. The investigation revealed that the fight occurred on 41st St and resulted in the victim having been stabbed 4 times in the back. The victim was taken to Fisherman's Hospital and then flown to Jackson in stable condition. The suspect was identified as Adroiam Stewart-Williams. Video evidence supported witness testimony that Adoriam stabbed the victim. Adoriam was arrested on scene and charged with aggravated battery



19OFF003421: Vessel Burglary

Occurred: 37th Street, Marathon

(2) Mercury 350 Verado lower units were reported stolen. No other information has been reported.

19OFF003985: Boat Motor Theft

Occurred: 30th Street, Marathon

On 05/23/2019, the victim tied his inflatable West Marine dinghy with a 2006 2.5 HP Mercury motor to the 30th Street guardrail, approximately 3/4 down the street. On 5/26/19 the victim was notified by his friend that the outboard motor was missing from his dinghy.

Deputy Williams is investigating this case. The outboard has been entered into F/NCIC as stolen. There are no known suspects, witnesses, or video evidence.

19OFF003846 Residential Burglary

Date: May 22, 2019

Occurred: Sombrero Beach Road

Caretaker/Property manager Sherry Broadway called 911 and advised she came to check on rental property at 574 Sombrero Beach Road and found three men inside. They fled the scene on bicycles. Broadway gave descriptions and direction of travel. Sgt. Jones located two of the three nearby, and they were positively ID'd by Broadway. While investigation the burglary the third male drove by on his bicycle. He was also stopped by Sgt. Jones. Broadway positively ID'd the third as well, and added that she caught him in the house a few days prior. He admitted to breaking into the house the day prior, to have sex with a girl, but denied going in this night – that it was only the other two to take a shower. They are all homeless subjects living on the streets of Marathon. All three were arrested on scene.

19OFF003804: Aggravated assault with deadly weapon

Occurred: 51st Street

Victim Derouin flagged down deputies at Tom Thumb 55th Street. He told deputies that he had been hit across the back of the head with a cooking pot by Joseph Pennegena. Derouin further explained that he had been staying on Pennegena's boat with him and Pennegena's father. Way earlier in the morning he had gotten into a verbal altercation with Pennegena because Derouin had turned on the light and disrupted Pennegena and a girl. Derouin left the scene when Pennegena said he was going to shoot Derouin with an assault rifle. Derouin went back to the boat when he felt enough time had gone by and Pennegena had calmed down. An argument erupted immediately and Derouin was gathering his belongings to leave. Pennegena got physical and swung a pot at Derouin, then got an assault rifle out and again threatened to kill Derouin. Det. Benedetti spoke with both Pennegenas who admitted to somewhat of an altercation, and guns being on the boat, including an assault rifle. Due to injuries noted on Derouin, coupled with statements from all parties on scene, an arrest warrant was issued and Pennegena was arrested.

UPDATED CASES:

Reported: April 8th, 2019

Occurred: Joes Pawn Shop

The victim reported that upon cleaning out a company truck, he found a pawn shop receipt indicating that a previous employee pawned a company Hammer drill.

Detective Bourcier investigated this case and identified the suspect as Dennis Gonzalez. Detective Bourcier obtained an arrest warrant for Gonzalez for grand theft and falsifying pawn records. The warrant has been served. Case, closed by arrest.

19OFF000431: Robbery

Reported: January 17, 2019

Occurred: 7766 Aviation Blvd.

The victim was inside his home when a black male with a white tank top and a red t-shirt around his face entered his home saying "what's up." The suspect brought out a knife and demanded the victim give him his wallet and all his money. The suspect ordered on his knees and to lay down. The victim gave the suspect \$90 and was then ordered to his vehicle at knife point where the victim struggled the knife away from the suspect. The victim suffered a laceration

The victim believes the suspect is Tommy Lancaster based on his voice, eyes, and hair style.

Detective Bourcier is investigating this case. Three victims have been identified and interviewed. The victim identified Tommy Lancaster and Elysee Paul during a photo lineup. Facebook postings from Tommy Lancaster and Elysee Paul indicate that they committed this robbery. Screenshots have been taken of the postings. The knife did not produce any latent prints.

Arrest warrants have been served for Lancaster and Paul. Both arrested and are in MCSO jail at this time.

Community involvement

Sgt. Kellenberger found graffiti at the north end of Vaca Cut Bridge. The graffiti was painted over.





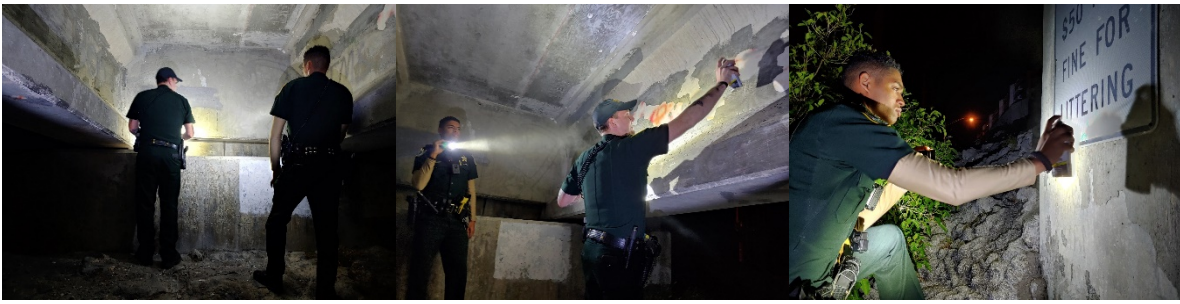
Sgt Kellenberger found graffiti behind Burger King. The graffiti was painted over.



Sgt Kellenberger answered a complaint from a local business of subjects sleeping in the parking lot at the end of Washington Street. Sgt Kellenberger removed mattresses from the area and placed them into the garbage. MGS was contacted and removed the mattresses. The subject in question was contacted and issued a trespass warning for the property.



Sergeants Kellenberger and Mixon met with Mrs. Lilly Davis' niece Valerie on Louisa Street to discuss her recent passing and funeral. Both sergeants responded back on 3/4/19 and assisted in planting a memorial garden to honor Mrs. Davis and her dedication and devotion to the 41 Street area and the Monroe County Sheriff's Office.



Deputies Hradecky and Rodriguez removing graffiti at Vaca Cut Bridge.



Deputies Hradecky and Rodriguez cleaning up trash left behind along the roadway in Marathon.



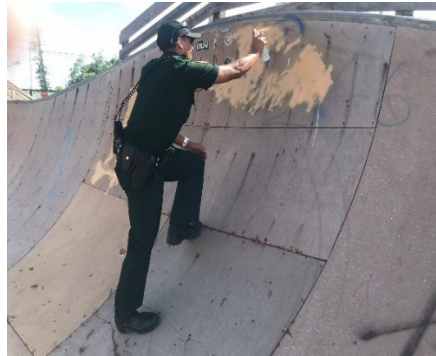
Deputy Hradecky cleaning up trash left behind at the 33rd Street Boat Ramp.



Deputies Walraven and McKnight painted over graffiti on the bike trail at the 56mm.



Deputy Douthirt contacted Marathon Garbage Services and had them remove this couch from the side of the road on 120th Street.



Dep. Guieb covered up graffiti at the skate park.

Progress on Prior Community Concerns:

We have been very aggressive in enforcement in both school zones and at the bus stops. 15 school bus infractions for passing a stopped school bus were written and 33 speed citations in the school zone were written over a 10 day period.

Personnel and Budget:

Our staffing is currently 2 deputies down with 2 deputies in Field Training.

If you should have any questions or concerns, please feel free to contact me.

Capt. Don Hiller

Cc: Chuck Lindsey
Diane Clavier

CITY COUNCIL AGENDA STATEMENT



Meeting Date: June 11, 2019

To: Honorable Mayor and Council Members

From: George Garrett, Planning Director

Through: Chuck Lindsey, City Manager

Agenda Item: Consideration of A Request By Holiday Inn Express & Suites For A Time Extension For Approvals Granted Pursuant To Resolutions 2014-105 And 2015-37 Pertaining To The Granting Of Twenty-Five (25) Transient Residential Units (TRUs) For A Project Approved By The City To Expand The Holiday Inn Express & Suites By A Total Of Twenty-Seven (27) Hotel Units Approved Pursuant To Resolutions 2014-61 And 2014-62 For A Conditional Use Permit And A Development Agreement Respectively; Providing That Said Conditional Use Permit And Development Agreement Were Approved For Time Extensions Pursuant To Resolutions 2017-47 And 2018-65; Providing That The Approval Of This Resolution Makes The Approved Time Frames For The Conditional Use Permit, Development Agreement And The Allocation Of Transient Residential Units (TRUs) Contemporaneous; Providing That Said Extension Request Is Issued For Property Which Is Legally Described As Part Of Government Lot 2, Fat Deer Key, Monroe County, Florida, Having Real Estate Numbers 00100260-000100 And 00100260-000102.

BACKGROUND:

Resolution 2019-02 serves to do the following with regard to the Conditional Use Permit and Development Agreement for the expansion of the Holiday Inn Express:

1. The duration and time line for the Agreement originally memorialized in Resolution 2014-62 is now established as follows:
 - a. All building permits must be obtained by July 10, 2019.
 - b. Certificates of Occupancy for all buildings permitted under the Development Agreement must be obtained by July 10, 2021.
2. So long as the Conditional Use Permit memorialized originally in Resolution 2014-61 and the Agreement memorialized originally in Resolution 2014-62 remain valid and in good standing with the City, then the twenty-five (25) Transient Residential Unit Allocations originally allocated and memorialized in Resolution 2014-105 remain associated with the Holiday Inn Express and Suites project approval, whether in original ownership or another owner.

This request serves only to extend the time frame for obtaining buildings permits currently set at July 10, 2019. The Applicant has submitted a complete set of construction plans. They are currently under review by the City. The Applicant is simply trying to ensure that they meet appropriate deadlines. In as much as the City is reviewing the plans now, this should not be an issue. However, in an abundance of caution, the Applicant wants to make sure that they are not in default. They are requesting a minimal extension. Staff is suggesting that the extension be granted for up to sixty (60) days.

Yes

No

 X
2. Other –Sewer Mandate

 X

FISCAL NOTE:

NA

APPROVED BY FINANCE DIRECTOR:

NA

RECOMMENDATION:

Approval

**CITY OF MARATHON, FLORIDA
RESOLUTION 2019-XX**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA APPROVING A REQUEST BY HOLIDAY INN EXPRESS & SUITES FOR A TIME EXTENSION FOR APPROVALS GRANTED PURSUANT TO RESOLUTIONS 2014-105 AND 2015-37 PERTAINING TO THE GRANTING OF TWENTY-FIVE (25) TRANSIENT RESIDENTIAL UNITS (TRUS) FOR A PROJECT APPROVED BY THE CITY TO EXPAND THE HOLIDAY INN EXPRESS & SUITES BY A TOTAL OF TWENTY-SEVEN (27) HOTEL UNITS APPROVED PURSUANT TO RESOLUTIONS 2014-61 AND 2014-62 FOR A CONDITIONAL USE PERMIT AND A DEVELOPMENT AGREEMENT RESPECTIVELY; PROVIDING THAT SAID CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT WERE APPROVED FOR TIME EXTENSIONS PURSUANT TO RESOLUTIONS 2017-47 AND 2018-65; PROVIDING THAT THE APPROVAL OF THIS RESOLUTION MAKES THE APPROVED TIME FRAMES FOR THE CONDITIONAL USE PERMIT, DEVELOPMENT AGREEMENT AND THE ALLOCATION OF TRANSIENT RESIDENTIAL UNITS (TRUS) CONTEMPORANEOUS; PROVIDING THAT SAID EXTENSION REQUEST IS ISSUED FOR PROPERTY WHICH IS LEGALLY DESCRIBED AS PART OF GOVERNMENT LOT 2, FAT DEER KEY, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00100260-000100 AND 00100260-000102.

WHEREAS, pursuant to Resolution 2019-02, the terms of the Conditional Use Permit, Development Agreement, and allocation of Transient Residential Units (TRUs); now runs contemporaneously; and

WHEREAS, the term of such approvals was determined to be:

- a. All building permits must be obtained by July 10, 2019.
- b. Certificates of Occupancy for all buildings permitted under the Development Agreement must be obtained by July 10, 2021.

WHEREAS, the Applicant has submitted building construction plans which are currently under review by the City; and

WHEREAS, the Applicant is simply trying to ensure that they meet reasonable and essential deadlines; and

WHEREAS, in as much as the City is reviewing the construction plans currently, meeting the existing deadline should not be an issue; and

WHEREAS, in an abundance of caution, the Applicant wants to make sure that they are not in default; and

WHEREAS, staff is suggesting that the extension be granted for up to sixty (60) days; and

WHEREAS, this Resolution serves only to extend the time frame for obtaining buildings permits currently set at July 10, 2019,

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 following represent the direction of the City Council:

All building permits pursuant this amendment to Resolution 2019-02 must be obtained by September 10, 2019.

Section 3. This Resolution shall take effect immediately upon execution.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS XXth DAY OF _____ 2019.

THE CITY OF MARATHON, FLORIDA

John Bartus, 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:

David Migut, City Attorney

CITY COUNCIL AGENDA STATEMENT



Meeting Date: June 11, 2019
To: Honorable Mayor and Council Members
From: George Garrett, Planning Director
Through: Chuck Lindsey, City Manager

Agenda Item: **Resolution 2019-60**, Consideration Of A Request For A Conditional Use Permit For Coral Construction Company Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (Code) Entitled "Conditional Use Permits" For The Development Of A Property Into Affordable Housing, Outdoor Storage Yard, And Commercial Office Space; Located At 347 Aviation Boulevard; Which Is Legally Described As A Tract Of Land In A Part Of Sections 1 And 2, And Containing Lots 11, 12, 13, 14, 15, And A Portion Of Lots 10 And 16, Schmitt Subdivision, Township 66 South, Range 32 East, Key Vaca, Monroe County, Florida; Having Real Estate Numbers 00101300-000000 & 00101360-000000, Nearest Mile Marker 51.

APPLICANT/ OWNER: Coral Construction Company

AGENT: L. Steven Hurley, DDAI

LOCATION: The project site consists of 2 parcels located at 347 Aviation Boulevard. Nearest mile marker 51. See Figure 1.

Figure 1 - Project Site

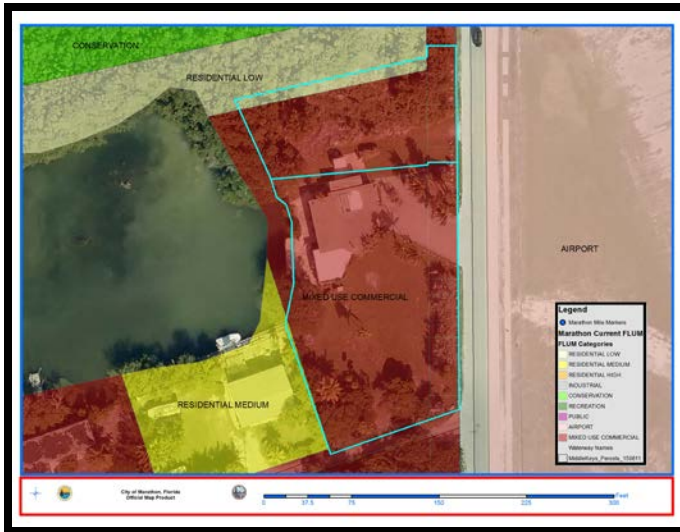


REQUEST: A Conditional Use Approval and Development agreement for redevelopment of the subject property having the real estate numbers 00101300-000000 & 00101360-000000.

FUTURE LAND USE MAP DESIGNATION:

Mixed Use Commercial (MUC). See Figure 2.

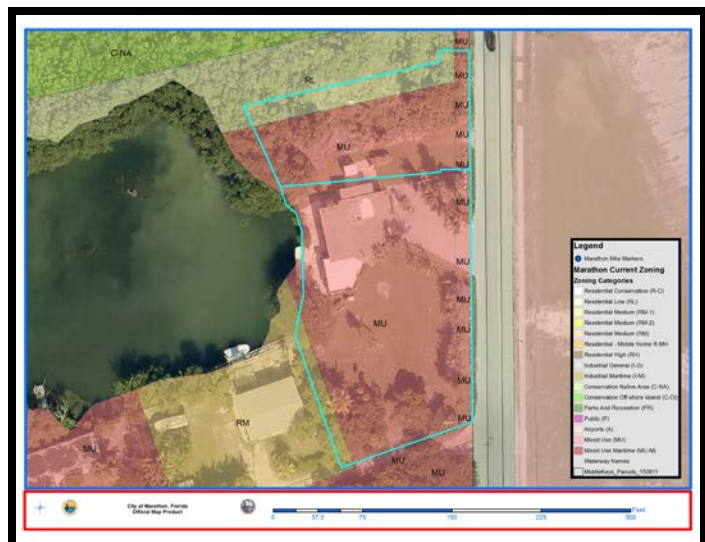
**Figure 2
Future Land Use Map**



ZONING MAP DESIGNATION:

Mixed Use (MU). See Figure 3.

**Figure 3
Zoning Map**



LOT SIZE:

Total acreage: approximately 1.07 acres or 46,610 square feet

SURROUNDING ZONING AND USES:

	<u>UZoning</u>	<u>UUse</u>
North	Mixed Use, Residential Low, Conservation Native Area	Coconut Cay and Vacant land
East	Airport	Marathon Airport
South	Mixed Use	Coconut Cay, vacant land
West	Residential Medium and Mixed Use	SFR, Vacant (250 Gulf Terrace)

EXISTING CONDITIONS:

The project site consists of a two parcels. The parcels contain a single family residence.

PROPOSED REDEVELOPMENT:

Affordable Units: 14 Units
Commercial: 2,000 square feet

BACKGROUND:

The proposed project is a redevelopment of property to include the construction of new affordable and commercial uses in the Mixed Use zoning classification. This report addresses the Conditional Use application.

On May 20, 2019 the Planning Commission reviewed the proposed project finding it in compliance with the City’s Comprehensive Plan and Land Development Regulations.

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

EVALUATION FOR COMPLIANCE WITH THE LAND DEVELOPMENT REGULATIONS:

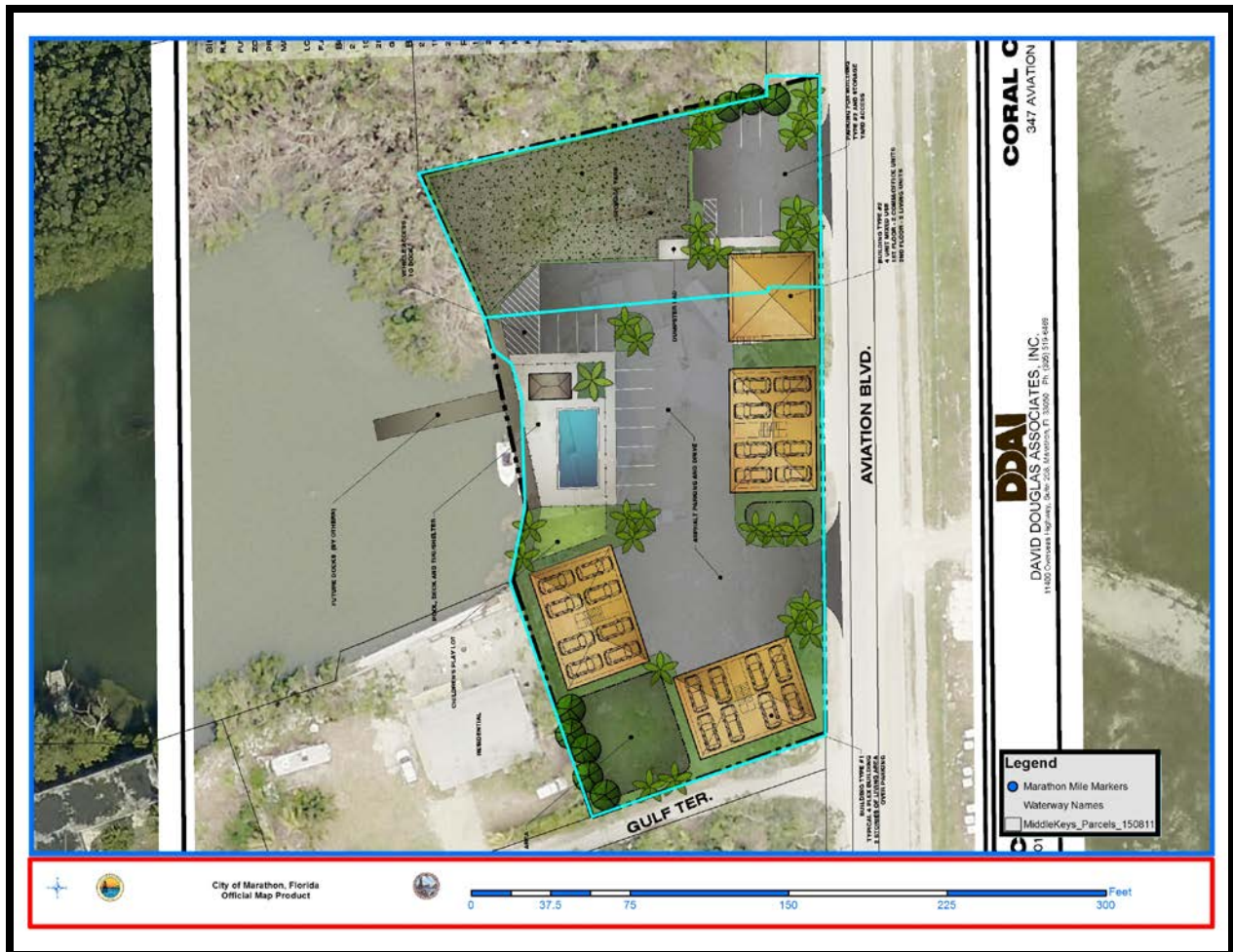
The criteria for evaluating a Conditional Use Approval are outlined in Chapter 102, Article 13, Conditional Use Permits, in the City of Marathon Land Development Regulations.

CRITERIA

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

The proposed redevelopment 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 “The MU zoning 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

Figure 4 - Proposed Redevelopment Site Plan
Modified in final Planning Commission Plan (see Attachment)



and the US 1 corridor, in an effort to recognize the role of US1 as the City of Marathon's "Main Street". Specifically, this district provides for land uses that have a strong pedestrian-oriented character, with a mixture and concentration of specialty shopping, transient lodging, retail, personal service, restaurant, cultural, fishing industry, affordable housing and entertainment uses in the Old Town area. The MU district also provides for large-scale retail and commercial business opportunities in other areas, including larger shopping centers, specialty shopping centers, individual multi-tenant commercial buildings, automobile services and sales, fast food restaurants, affordable housing residential uses, transient lodging and other retail establishments that serve the community at large. The (MU) district is designated within the Mixed-use Commercial (MUC) future land use category on the Future Land Use Map (FLUM).”

The proposed project consists of the development of new residential uses and is consistent with the Mixed Use Zoning District. Section 103.15 establishes whether specific uses are allowed as of right, limited, accessory or conditional uses, through Table 103.15.2. That table shows that multifamily residential uses are allowed as Conditional Uses in the MU district. Conditional Use review is intended to allow a broader view of the potential impacts of a project on adjacent uses and on City concurrency related resources such as road capacity, solid waste, sewer, and potable water availability.

The project as proposed meets the density constraints imposed on the type of proposed use.

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

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

The proposed project is located within the Mixed Use Commercial Future Land Use District. Policy 1-3.1.4 of the City of Marathon Comprehensive Plan states that 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 proposed project includes development of similar uses which is consistent with the Mixed Use classification.

The existing land use pattern in the project vicinity consists of the airport to the east, commercial motel to the south, commercial and residential uses to the north, and residential uses to the west.

Otherwise, the redevelopment of the site will result in significant improvement to the site development quality, including upgraded landscaping, stormwater management, and architecture. The improvements are expected to have a positive benefit on the surrounding uses and the City of Marathon.

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

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

The proposed use is the redevelopment and expansion of residential use which has not had any known impact to the health, safety and welfare of the public. The additional office and outdoor storage are not expected to create any adverse impacts to the health, safety, and welfare of the public.

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

Figure 5
FEMA Flood Maps

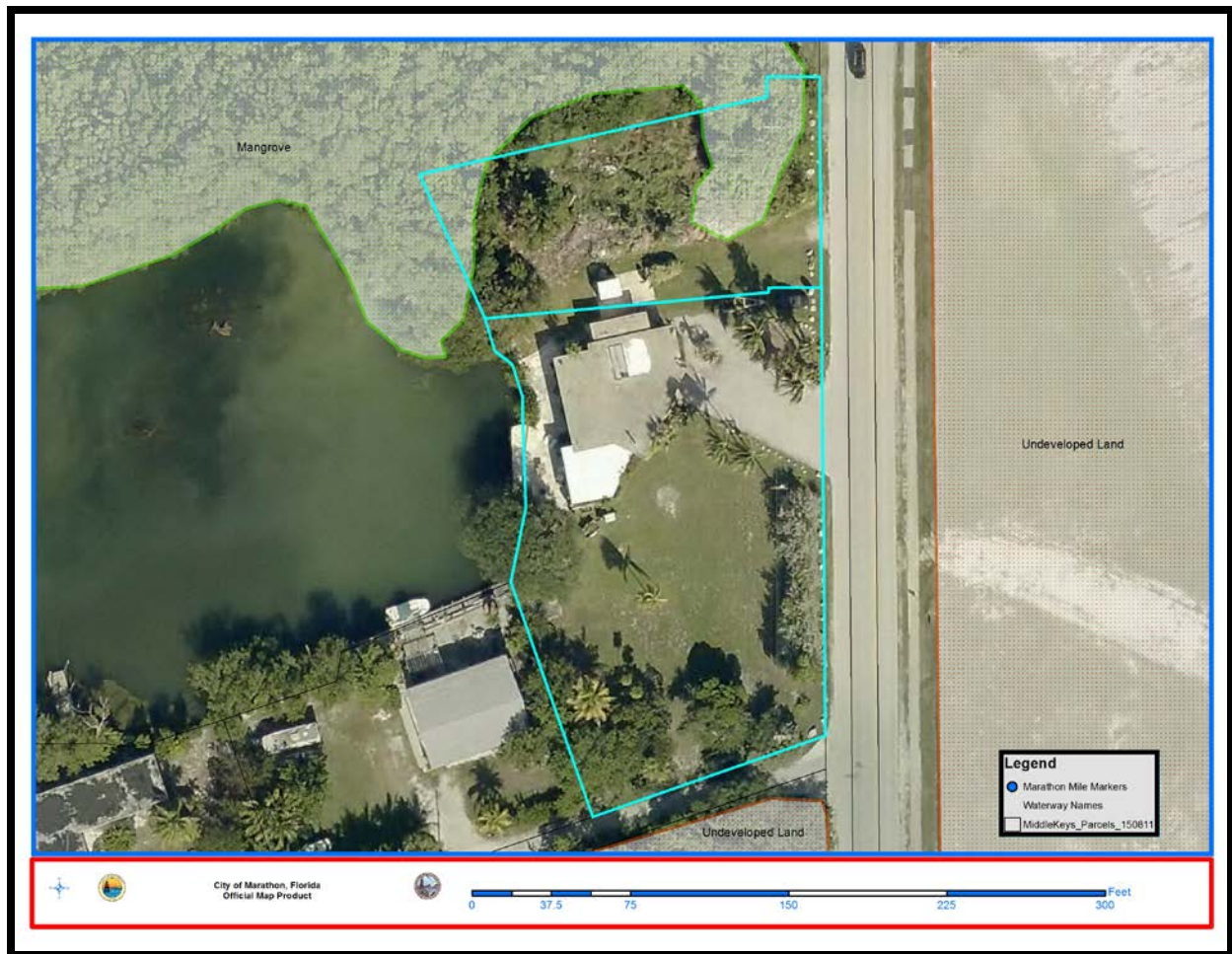


Therefore, the request is ***in compliance*** with the requirements of these sections.

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

The existing conditions maps indicate the subject area is designated as developed, although there are portions that are undeveloped along the mangrove fringes. A site inspection showed the current conditions as scarified with a building near the water. A portion of the property is recognized as possible habitat for a state or federally listed animal species, the eastern indigo snake. Figure 6 shows that this portion falls under the category of mangroves. The portion along the front, though identified as mangroves on the species focus, is actually buttonwoods and exotics on the City Habitat Map. Should any development necessitate the removal of existing native vegetation within these areas an impact determination will be made using the Species Assessment Guides.

Figure 6
Species Focus Area Habitat



Further improvements to water quality are expected to arise from stormwater improvements to the site, which should provide up-to-date treatment and eliminate any existing discharges to surface waters. The applicant has submitted preliminary stormwater plans suitable for the Conditional Use Application, and final plans are required prior to building permit issuance.

Site landscaping will be selected from Table 107.68.1, Appendix A, Article 8, Section 107 of the

City of Marathon Code of Ordinances. The native vegetation will improve the environmental quality of the site and reduce irrigation needs.

Pursuant to Article Two of Chapter 106 any native trees within footprints will have to be mitigated. These transplanted and mitigated trees will be monitored per Section 106.10.

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

- If the redevelopment is found to have any effect on the Eastern Indigo Snake Habitat, then the prescribed protection measures must be undertaken, and the information poster posted on site.
- A final Landscape/mitigation plan must be submitted prior to permit issuance.

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

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

The applicant has provided a breakdown of the proposed occupancy of the onsite buildings. The “Trip Generation Analysis” schedule provided by the traffic engineer shows that 14 Single Family Residences will create 142 net new daily trips. The submitted study finds that the proposed increase in units will not have an adverse impact on the operating characteristics of U.S. 1, nor will it inhibit the safe flow of traffic traveling through the City of Marathon.

Land Use	Size	Daily Trips	AM Peak Hour Trips			PM Peak Hour Trips		
			In	Out	Total	In	Out	Total
Multifamily	14	64	2	6	8	6	4	10
Office	1000 sq. ft.	16	2	0	2	1	2	3
Outdoor Storage	1500 sq. ft.	64	2	0	2	0	2	2
Total		144	6	6	12	7	8	15

Ingress and egress to the properties is currently provided by an existing driveway. The site plan proposes splitting the residential and commercial each with their own separate driveways. The trip generation analysis of the traffic study shows that with the analyzed units and commercial, the daily trips generated would be 144.

Additionally, for the intersection of US1 and Aviation, DOT is scheduled to have plans completed by May 24th. Construction on the intersection improvements is to be expected to commence approximately in September.

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

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

Parking requirements are outlined in Section 107.46 (Parking Schedule). For fourteen residences, two parking spaces are required for each unit. The commercial office requires 4 spaces. One space is required for every 10 bedrooms. Therefore a total of 35 spaces must be provided, the applicant proposes 41 standard spaces. The submitted site plan shows the parking spaces to be located under the units. A final site plan showing the number and dimensions of the spaces will be required prior to permit issuance.

Section 107.52 includes a requirement that one handicapped space be provided for every 25 spaces required. Based upon the 41 spaces, two ADA spaces are required. Parking space sizes are 9' x 18' for 90 degree parking.

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

- The final site plan must show the required parking spaces with prior to permit issuance.

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

The proposed project consists of redevelopment of an existing residential use. The proposed residential and commercial uses do not have any adverse effect through noise, glare or odors; and the proposed use reduces these effects, therefore the proposed uses should have a de minimis impact.

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

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

Section 107.39 requires that all dumpsters and recycling bins be fully enclosed and screened. The site plan shows the dumpster located on a pad, this will have to be screened.

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

- The final site plan must show that the dumpsters are screened.

5. Utilities, with reference to location and availability;

Chapter 107, Article 13, establishes the City's Concurrency Management and certification requirements. This Conditional Use constitutes the City's Concurrency Level of Service Certificate, as follows:

- Wastewater: The applicant will provide wastewater and sewage collection and disposal via proposed sanitary clean outs, the property is currently connected to the City sewer system. This project will constitute an expansion, resulting in a de minimis impact. The applicant must provide utility easements for the proposed pits.
- Water: The Florida Keys Aqueduct Authority will provide potable water for the facility.

- Solid Waste: Marathon Garbage Service will provide solid waste disposal.
- Surface Water: The applicant has provided stormwater design information suitable for the Conditional Use application review which demonstrates compliance with City standards. However, a final stormwater plan will be required for building permit issuance.
- Recreation and Open Space: This redevelopment will have a de minimis impact on recreation and open space.
- Roadways: The applicant is redeveloping the site with a higher intensity than was contained within the prior development; therefore, a traffic study was completed to analyze the impact on transportation facilities.
- Educational Facilities: This redevelopment will have a de minimis impact on educational facilities.

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

- City approval is required for the stormwater management system prior to Building Permit Approval.
- City approval of the connection to the City Wastewater Utility will be required.
- A utility easement must be recorded for access and maintenance.
- The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.

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

Table 107.66.1 establishes project boundary buffer standards applicable to the project. The subject parcel is zoned MU and is bordered to the west by property zoned RM, and to the North by property zoned RL. There is a high project boundary buffer requirement for portions of the project area adjacent to parcels zoned RM & RL. The final landscape plans must be approved by the City Biologist.

Buffer Type	Minimum Width	Canopy Tree	Understory Tree	Non-Deciduous	Shrub	Screening
H-High	20 feet	10	5	5	30	Yes

Section 107.71 C. requires that all multifamily residential developments provide one of two types of buffers along the entire street frontage. The project is along Aviation and thus requires a type III buffer.

Table 103.15.2 outlines setback requirements in the MU district as follow: front yard 0-30'; interior side yards 10'; and rear setbacks have a 20' setback from the property line.

Table 106.28.1 outlines that the setback of principal structures on a canal are 20' as measured from MHWL or mangrove fringe whichever is further landward.

This plan shows a 15 foot setback on the front yard, 10 foot setback side yard setback nearest the RM parcel and a 20 foot rear yard setback.

Setback	Required	Required Landscape	Proposed	Compliant
Front	0-30	NA	15	Yes
Side RM	10	20	10	Yes
Side	10	NA	10	Yes
Rear	20	NA	20	Yes

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

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

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

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

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

Article 107.54 establishes criteria for lighting, including light pole light limitations and other technical criteria. Final lighting plans will be submitted along with final landscaping plans, and will include verification from the landscape architect that all provisions of the article are met.

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

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

8. Required yards and other open space;

Section 106.16 established required open space for the project. The site is scarified; therefore, a twenty percent open space requirement applies. This results in 9,322 square feet of pervious area (including landscape area).

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

9. General compatibility with surrounding properties; and

The project is a redevelopment of property that has needed improvement and maintenance. Adjacent uses include a commercial establishment and other residential dwelling units. A redevelopment of the property into affordable residential units is expected to be fully compatible with these uses. The proposed project represents improvement to the current state of prior development, and is expected to increase compatibility with surrounding properties.

Section 107.40 restricts the height of buildings to 37' as measured from the crown of the roadway or unimproved grade. The site plans show that buildings are below 37'.

While the proposed structures are below the maximum heights for aviation, staff is requiring that an aviation easement be completed between the applicant and Monroe County Airport. The draft aviation easement has been proposed with the Monroe County Airport, will have to be signed and recorded prior to permit issuance.

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

- An aviation easement must be recorded in the Clerk of Courts prior to permit issuance.

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

Section 104.03 Affordable Housing contains special requirements.

The following criteria are applicable to this redevelopment:

- Dwelling units shall contain less than or equal to 1,800 square feet of habitable space.
- Occupancy of affordable housing units is limited to those meeting the following income requirements:
 - Very-low-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 50 percent of the median adjusted gross annual income for households within the county;
 - Low-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 80 percent of the median adjusted gross annual income for households within the county;
 - Median-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 100 percent of the median adjusted gross annual income for households within the county;
 - Moderate-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 120 percent of the median adjusted gross annual income for households within the county;
 - Middle-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 160 percent of the median adjusted gross annual income within the county;
- For the purposes of this section, "adjusted gross income" means all wages, income from assets, regular cash or non-cash contributions or gifts from persons outside the household (that will be used to offset the purchase price of the dwelling unit), and such other resources and benefits as may be determined to be income by the United States Department of Housing and Urban Development, adjusted for family size, less deductions allowable under Section

62 of the Internal Revenue Code. Income from assets is calculated at either the actual income from all assets or two (2%) percent of the value of all assets, whichever is greater. If total assets are less than \$5,000.00, no income is considered. Asset inclusions: Cash accounts (checking, savings, IRA, Money Market...), investments, retirement accounts, boats, RV's. Income exclusions: Personal property, automobiles;

- The maximum sales price shall not exceed 300 percent of that amount which represents 160 percent of the median adjusted gross annual income for households within the county;
- The monthly rent shall not exceed 30 percent of that amount which represents the income bracket of the household, i.e., very low, low, median, moderate or middle, divided by 12. In no case shall the monthly rent exceed 160 percent of the median adjusted gross annual income for households within the county, divided by 12; and
- If the dwelling units utilize affordable housing BPAS allocations, the requirements of Subsection 107.06(c) shall also apply.
- Annual income qualification, lease or employment verification, as applicable, by the City, or its designee, shall be limited to rental and employee housing dwelling units. Income verification for owner occupied dwellings shall be performed and approved by the City or its designee prior to the sales closing and occupancy of the dwelling unit.

Section 104.48 Residential Dwelling Units contains special requirements.

The following criteria are applicable to this redevelopment:

- 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.

Section 104.42 Outdoor Storage contains special requirements.

- Outdoor storage shall be incidental and subordinate to the primary use located on the property.
- Storage areas shall be located to the side or rear of the principal building and completely screened from view

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

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

CONCLUSION:

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

The proposed redevelopment consists of the replacement and enhancement of a long standing existing residential use, as well as the development of new affordable units and commercial uses on site. As such the development, including the overall upgrading and improvement of the sites, 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 at both project sites, and is not expected to create a nuisance, traffic congestion or threat to public, health, safety or welfare.

RECOMMENDATION:

The Planning Commission forward a unanimous recommendation of conditional approval of the Residential / Commercial Development to the City Council. The proposed conditions of approval are listed below.

Conditions of Approval

- 1) A Final Site Plan must be submitted showing the existing (to be retained) and proposed buildings meeting the required setbacks, the specific setbacks for the old building footprint, parking locations, and access drives and all civil engineering features; and
- 2) City approval of the connection to the City Wastewater Utility is required, including:
 - o engineering drawings as needed,
 - o projected wastewater flows, and
 - o any easements, connections, and projected flows for Casa Cayo.
- 3) City approval is required for the stormwater management system prior to Building Permit Approval.
- 4) The applicant will provide fire protection plans in accordance with fire protection requirements as outlined by the City Fire Marshal (attached as Exhibit A)
- 5) A Final Landscape Plan must be submitted showing the proper treatments and buffers, including the appropriate treatment types and trees.
- 6) The final site plan must show that the dumpsters are screened.
- 7) All signs shall be reviewed and approved for compliance with the City of Marathon LDR's.
- 8) If the redevelopment is found to have any effect on the Eastern Indigo Snake Habitat, then

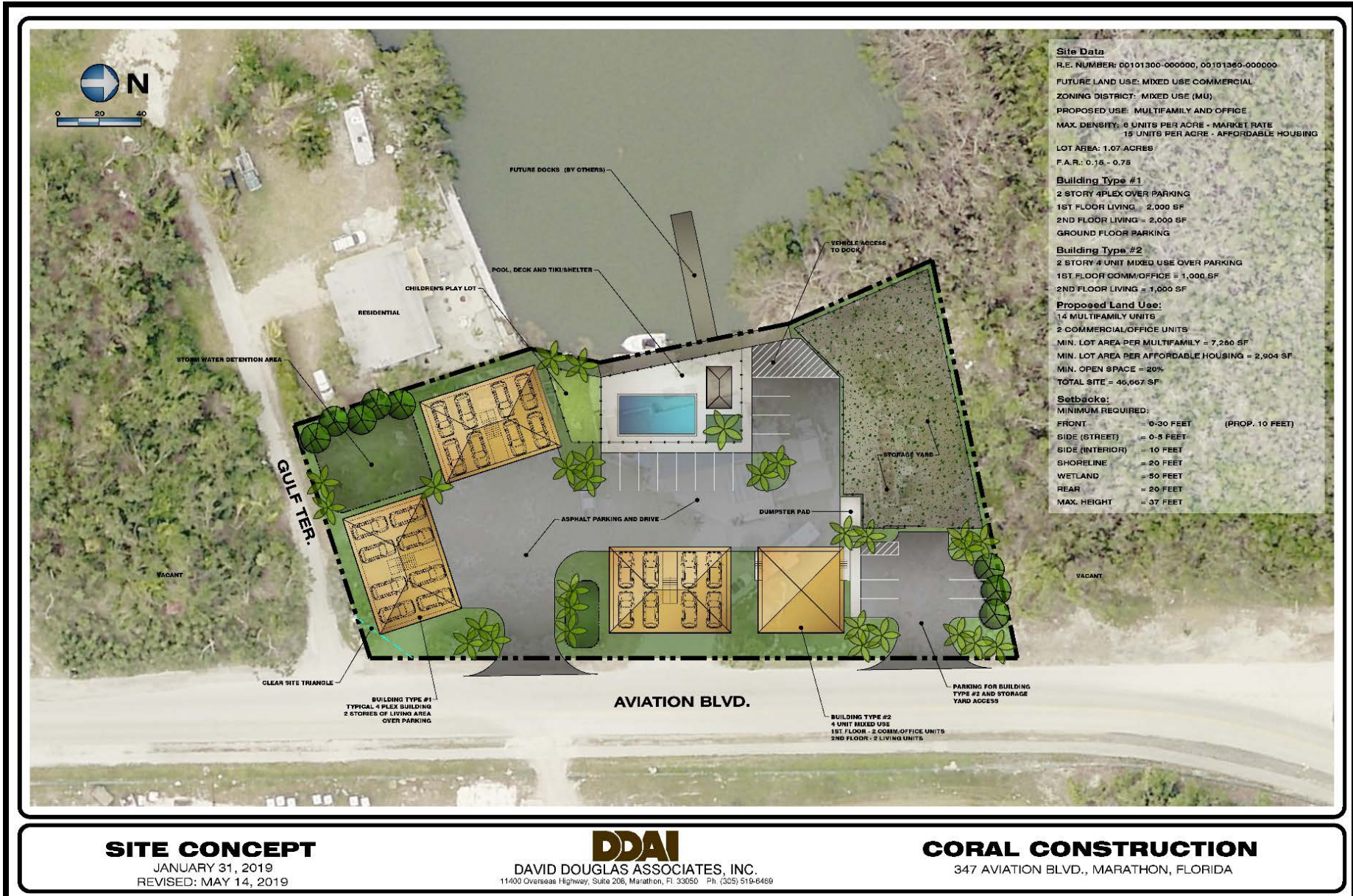
the prescribed protection measures must be undertaken, and the information poster posted on site.

- 9) An aviation easement must be recorded in the Clerk of Courts prior to permit issuance.
- 10) Dwelling units shall contain less than or equal to 1,800 square feet of habitable space.
 - Occupancy of affordable housing units is limited to those meeting the following income requirements:
 - Very-low-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 50 percent of the median adjusted gross annual income for households within the county;
 - Low-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 80 percent of the median adjusted gross annual income for households within the county;
 - Median-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 100 percent of the median adjusted gross annual income for households within the county;
 - Moderate-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 120 percent of the median adjusted gross annual income for households within the county;
 - Middle-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 160 percent of the median adjusted gross annual income within the county;
 - For the purposes of this section, "adjusted gross income" means all wages, income from assets, regular cash or non-cash contributions or gifts from persons outside the household (that will be used to offset the purchase price of the dwelling unit), and such other resources and benefits as may be determined to be income by the United States Department of Housing and Urban Development, adjusted for family size, less deductions allowable under Section 62 of the Internal Revenue Code. Income from assets is calculated at either the actual income from all assets or two (2%) percent of the value of all assets, whichever is greater. If total assets are less than \$5,000.00, no income is considered. Asset inclusions: Cash accounts (checking, savings, IRA, Money Market...), investments, retirement accounts, boats, RV's. Income exclusions: Personal property, automobiles;
 - The maximum sales price shall not exceed 300 percent of that amount which represents 160 percent of the median adjusted gross annual income for households within the county;
 - The monthly rent shall not exceed 30 percent of that amount which represents the income bracket of the household, i.e., very low, low, median, moderate or middle, divided by 12. In no case shall the monthly rent exceed 160 percent of the median adjusted gross annual income for households within the county, divided by 12; and
 - If the dwelling units utilize affordable housing BPAS allocations, the requirements of Subsection 107.06(c) shall also apply.
 - Annual income qualification, lease or employment verification, as applicable, by the City, or its designee, shall be limited to rental and employee housing dwelling units. Income verification for owner occupied dwellings shall be performed and approved by the City or its designee prior to the sales closing and occupancy of the dwelling

unit.

- 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.
- 11) Outdoor storage shall be incidental and subordinate to the primary use located on the property.
 - 12) Storage areas shall be located to the side or rear of the principal building and completely screened from view.
 - 13) A unity of title must be recorded with the Clerk of Courts, prior to permit issuance.
 - 14) Affordable housing deed restrictions must be recorded with the Clerk of Courts, prior to permit issuance
 - 15) The Conditional Use Development Order will constitute the Certificate of Concurrence for the project. The determination will be valid for one year.
 - 16) The Applicant must obtain and transfer fourteen (14) affordable 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 MARKET RATE RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT.**

Attachment A: Approved Site Plan



**CITY OF MARATHON, FLORIDA
RESOLUTION 2019-60**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE REQUEST FOR A CONDITIONAL USE PERMIT FOR CORAL CONSTRUCTION COMPANY PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (CODE) ENTITLED “CONDITIONAL USE PERMITS” FOR THE DEVELOPMENT OF A PROPERTY INTO AFFORDABLE HOUSING, OUTDOOR STORAGE YARD, AND COMMERCIAL OFFICE SPACE; LOCATED AT 347 AVIATION BOULEVARD; WHICH IS LEGALLY DESCRIBED AS A TRACT OF LAND IN A PART OF SECTIONS 1 AND 2, AND CONTAINING LOTS 11, 12, 13, 14, 15, AND A PORTION OF LOTS 10 AND 16, SCHMITT SUBDIVISION, TOWNSHIP 66 SOUTH, RANGE 32 EAST, KEY VACA, MONROE COUNTY, FLORIDA; HAVING REAL ESTATE NUMBERS 00101300-000000 & 00101360-000000, NEAREST MILE MARKER 51; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Coral Construction Company, (The “Applicant”) filed an Application on March 12th, 2019 for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS; the Applicant proposes to develop fourteen (14) affordable residential units, commercial office space, and storage yard; and

WHEREAS, on the 20th day of May, 2019 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 11th day of June, 2019 the City Council (the “Council”) conducted properly advertised public hearings (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 the redevelopment of properties 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 2019-09, a copy of which is attached hereto as Exhibit “A”, granting a Conditional Use Permit to Coral Construction Company to develop fourteen (14) affordable residential units, commercial office space, and storage yard. 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 its adoption.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 11th DAY OF JUNE, 2019.

THE CITY OF MARATHON, FLORIDA

John Bartus, 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:

David Migut, City Attorney



**CITY OF MARATHON, FLORIDA
CONDITIONAL USE
DEVELOPMENT ORDER # 2019-09**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE REQUEST FOR A CONDITIONAL USE PERMIT FOR CORAL CONSTRUCTION COMPANY PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (CODE) ENTITLED “CONDITIONAL USE PERMITS” FOR THE DEVELOPMENT OF A PROPERTY INTO AFFORDABLE HOUSING, OUTDOOR STORAGE YARD, AND COMMERCIAL OFFICE SPACE; LOCATED AT 347 AVIATION BOULEVARD; WHICH IS LEGALLY DESCRIBED AS A TRACT OF LAND IN A PART OF SECTIONS 1 AND 2, AND CONTAINING LOTS 11, 12, 13, 14, 15, AND A PORTION OF LOTS 10 AND 16, SCHMITT SUBDIVISION, TOWNSHIP 66 SOUTH, RANGE 32 EAST, KEY VACA, MONROE COUNTY, FLORIDA; HAVING REAL ESTATE NUMBERS 00101300-000000 & 00101360-000000, NEAREST MILE MARKER 51; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Coral Construction Company, (The “Applicant”) filed an Application on March 12th, 2019 for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS; the Applicant proposes to develop fourteen (14) affordable residential units, commercial office space, and storage yard; and

WHEREAS, on the 20th day of May, 2019 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 11th day of June, 2019 the City Council (the “Council”) conducted properly advertised public hearings (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 the redevelopment of properties 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 OWNER is proposing develop fourteen (14) affordable residential units, commercial office space, and storage yard in accordance with site plans provided in Attachment A.
2. In accordance with Section 102.77 of the LDRs, the Commission and Council considered and determined that the OWNER 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
 10. Any special requirements set forth in the LDRs for the Proposed Use involved.

CONDITIONS IMPOSED:

Granting approval of the Conditional Use Permit is subject to the following conditions:

- 1) A Final Site Plan must be submitted showing the existing (to be retained) and proposed buildings meeting the required setbacks, the specific setbacks for the old building footprint, parking locations, and access drives and all civil engineering features; and
- 2) City approval of the connection to the City Wastewater Utility is required, including:

- engineering drawings as needed,
 - projected wastewater flows, and
 - any easements, connections, and projected flows for Casa Cayo.
- 3) City approval is required for the stormwater management system prior to Building Permit Approval.
 - 4) The applicant will provide fire protection plans in accordance with fire protection requirements as outlined by the City Fire Marshal (attached as Exhibit A)
 - 5) A Final Landscape Plan must be submitted showing the proper treatments and buffers, including the appropriate treatment types and trees.
 - 6) The final site plan must show that the dumpsters are screened.
 - 7) All signs shall be reviewed and approved for compliance with the City of Marathon LDR's.
 - 8) If the redevelopment is found to have any effect on the Eastern Indigo Snake Habitat, then the prescribed protection measures must be undertaken, and the information poster posted on site.
 - 9) An avigation easement must be recorded in the Clerk of Courts prior to permit issuance.
 - 10) Dwelling units shall contain less than or equal to 1,800 square feet of habitable space.
 - Occupancy of affordable housing units is limited to those meeting the following income requirements:
 - Very-low-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 50 percent of the median adjusted gross annual income for households within the county;
 - Low-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 80 percent of the median adjusted gross annual income for households within the county;
 - Median-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 100 percent of the median adjusted gross annual income for households within the county;
 - Moderate-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 120 percent of the median adjusted gross annual income for households within the county;
 - Middle-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 160 percent of the median adjusted gross annual income within the county;
 - For the purposes of this section, "adjusted gross income" means all wages, income from assets, regular cash or non-cash contributions or gifts from persons outside the household (that will be used to offset the purchase price of the dwelling unit), and such other resources and benefits as may be determined to be income by the United States Department of Housing and Urban Development, adjusted for family size, less deductions allowable under Section 62 of the Internal Revenue Code. Income from assets is calculated at either the actual income from all assets or two (2%) percent of the value of all assets, whichever is greater. If total assets are less than \$5,000.00, no income is considered. Asset inclusions: Cash accounts (checking, savings, IRA, Money Market...), investments, retirement accounts, boats, RV's. Income exclusions: Personal property, automobiles;
 - The maximum sales price shall not exceed 300 percent of that amount which

represents 160 percent of the median adjusted gross annual income for households within the county;

- The monthly rent shall not exceed 30 percent of that amount which represents the income bracket of the household, i.e., very low, low, median, moderate or middle, divided by 12. In no case shall the monthly rent exceed 160 percent of the median adjusted gross annual income for households within the county, divided by 12; and
 - If the dwelling units utilize affordable housing BPAS allocations, the requirements of Subsection 107.06(c) shall also apply.
 - Annual income qualification, lease or employment verification, as applicable, by the City, or its designee, shall be limited to rental and employee housing dwelling units. Income verification for owner occupied dwellings shall be performed and approved by the City or its designee prior to the sales closing and occupancy of the dwelling unit.
 - 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.
- 11) Outdoor storage shall be incidental and subordinate to the primary use located on the property.
- 12) Storage areas shall be located to the side or rear of the principal building and completely screened from view.
- 13) A unity of title must be recorded with the Clerk of Courts, prior to permit issuance.
- 14) Affordable housing deed restrictions must be recorded with the Clerk of Courts, prior to permit issuance
- 15) The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.
- 16) The Applicant must obtain and transfer fourteen (14) affordable 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 MARKET RATE RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT.**

VIOLATION OF CONDITIONS:

The OWNER 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 City Code and LDRs, the Council may revoke this approval upon a determination that the OWNER or its successor or designee is in non-compliance with this Resolution, City Code, or LDRs. Failure to adhere to the terms and conditions of approval contained herein is a violation of the City 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 LDRs, 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 CUP is hereby GRANTED subject to the conditions specified herein.

EFFECTIVE DATE:

This development order shall not take effect for thirty (30) days following the date it is filed with the City Clerk, and during that time, the CUP granted herein shall be subject to appeal as provided in the LDRs. An appeal shall stay the effectiveness of this development order until said appeal is resolved.

_____ Date

_____ George Garrett
Director of Planning

This Development Order was filed in the Office of the City Clerk of this _____ day of _____, 2019.

_____ 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 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, please be advised that pursuant to Chapter 9J-1, Florida Administrative Code, 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 Coral Construction Company, PO Box 500582, Marathon, FL 33050, this ____ day of _____, 2019.

Diane Clavier City Clerk

Attachments:
Attachment A: Proposed Site Plan



SITE CONCEPT

JANUARY 31, 2019
 REVISED: MAY 14, 2019



DAVID DOUGLAS ASSOCIATES, INC.
 11400 Overseas Highway, Suite 208, Marathon, FL 33650 Ph. (305) 519-6469

CORAL CONSTRUCTION

347 AVIATION BLVD., MARATHON, FLORIDA

CITY COUNCIL AGENDA STATEMENT



Meeting Date: June 11, 2019
To: Honorable Mayor and Council Members
From: George Garrett, Planning Director
Through: Chuck Lindsey, City Manager

Agenda Item: **Resolution 2019-61**, Consideration Of A Request For A Conditional Use Permit For Captain Pips Holdings, LLC Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (Code) Entitled “Conditional Use Permits” For The Development Of A Property Into Multifamily Housing, Office And Restaurant, And Marina; Located At 1470 Overseas; Which Is Legally Described As Part Of Government Lot 2 And Bay Bottom North Of And Adjacent To Lot 2 And Adjacent Portion Of State Road 4-A, Part Of Government Lot 2 In Rear Of Hanley’s Inc, And Block 3 Part Of Lot 3 And Government Lot 2 W R Thompson Subdivision, Section 9, Township 66 South, Range 32, Key Vaccas, Monroe County, Florida; Having Real Estate Numbers 00320350-000000, 00102790-000000, & 00102760-003000, Nearest Mile Marker 48.

APPLICANT/ OWNER: Captain Pips Holdings, LLC

AGENT: L. Steven Hurley, DDAI

LOCATION: The project site consists of 3 parcels. The parcels are located at 1470 Overseas Highway nearest mile marker 48. See Figure 1 & 2.

Figure 1 - Project Site



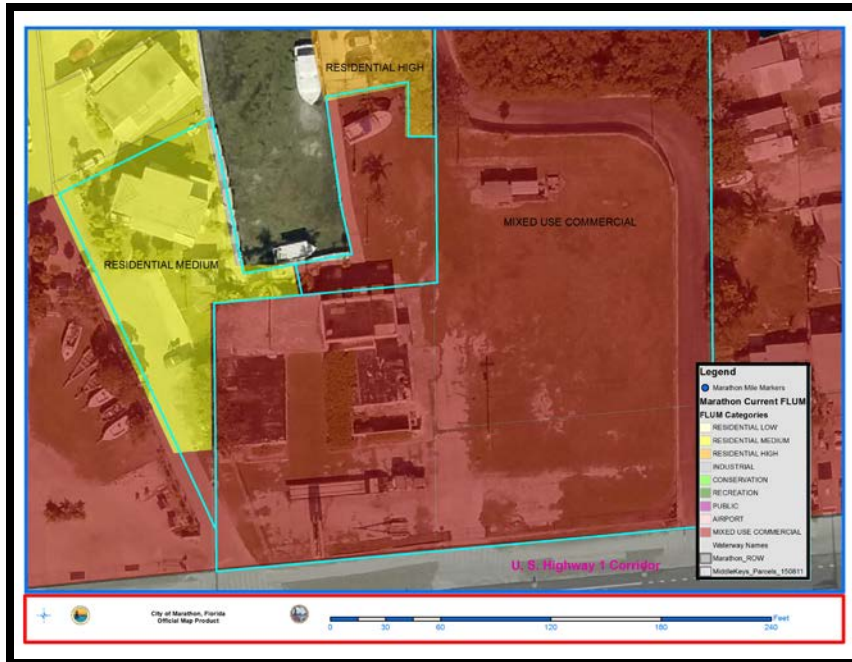
**Figure 2
Project Site**



REQUEST: A Conditional Use Approval for redevelopment of the subject property having the real estate numbers 00320350-000000, 00102790-000000, & 00102760-003000.

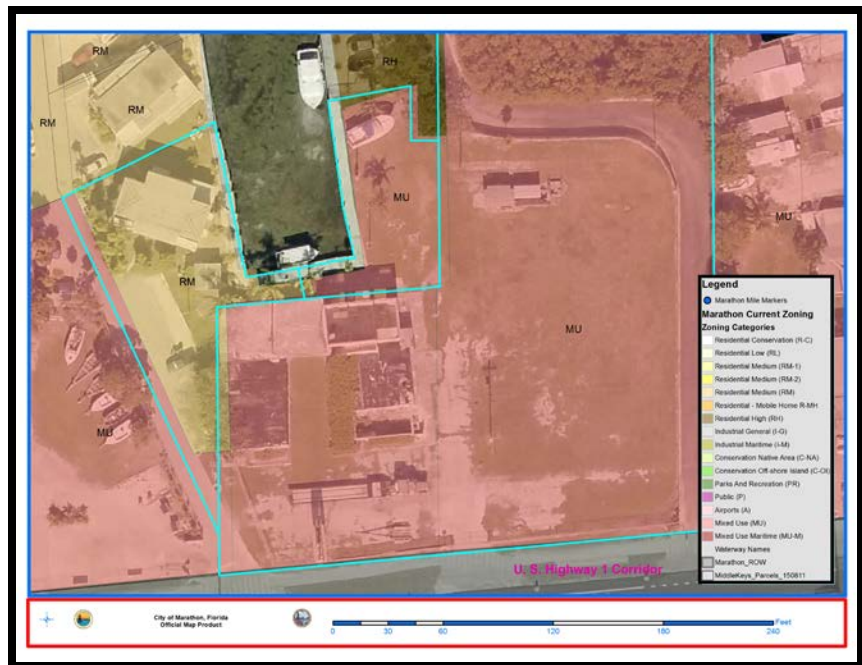
FUTURE LAND USE AND ZONING MAP DESIGNATIONS:
Mixed Use Commercial (MUC). See Figure 3 & 4.

Figure 3 - Future Land Use Map



ZONING MAP DESIGNATION:
Mixed Use (MU). See Figure 4.

Figure 4 - Zoning Map



LOT SIZE:

Total acreage: approximately 1.24 acres or 54,014 square feet

SURROUNDING ZONING AND USES:

	<u>Zoning</u>	<u>Use</u>
North	Residential Medium and Residential High	Casa Cayo, Harbor Cay Club, and Captain Pips
East	Mixed Use	Lenchos Mexican Restaurant and residential
South	Mixed Use and Residential Mobile Home	Trailerama, Dion’s
West	Residential Medium and Mixed Use	Porky’s, Captain Pips

EXISTING CONDITIONS:

The project site consists of three parcels. The residential parcel contains a four-plex, and the commercial parcel previously was developed with Hanley’s Restaurant and Marina.

PROPOSED REDEVELOPMENT:

Market Rate Units: 6 Units
Affordable Units: 1 Units
Commercial: 3,200 square feet and accessory structures

BACKGROUND:

The proposed project is a redevelopment of property to include the construction of new residential uses and commercial and marina uses in the Mixed Use zoning classification. This report addresses the Conditional Use application.

On May 20, 2019 the Planning Commission reviewed the proposed project finding it in compliance with the City’s Comprehensive Plan and Land Development Regulations. The Commission discussed terms for allowing the structures replacing the old restaurant to remain intact. They also discussed the parking area entering onto the access easement to Casa Cayo, and finally, required that all of the mangroves on the northern portion of the parcel remain entirely intact.

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

EVALUATION FOR COMPLIANCE WITH THE LAND DEVELOPMENT REGULATIONS:

The criteria for evaluating a Conditional Use Approval are outlined in Chapter 102, Article 13,

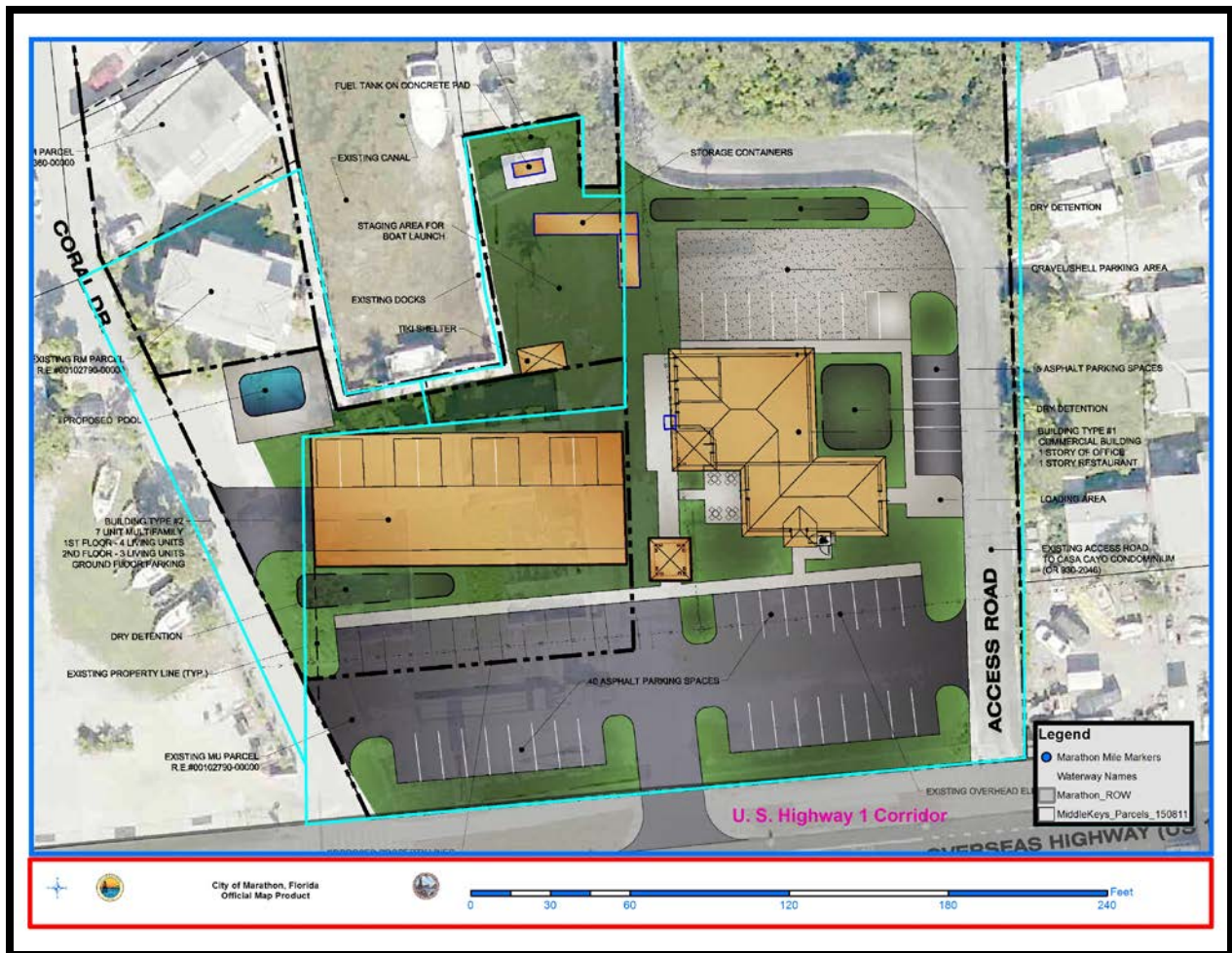
Conditional Use Permits, in the City of Marathon Land Development Regulations.

CRITERIA

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

The proposed redevelopment project is located within the Mixed Use (MU) Zoning District. Per Chapter 103, Article 2, Section 103.09 of the Land Development Regulations, "The MU zoning

Figure 5
Proposed Redevelopment Site Plan



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 US 1 corridor, in an effort to recognize the role of US1 as the City of Marathon's "Main Street". Specifically, this district provides for land uses that have a strong pedestrian-oriented character, with a mixture and concentration of specialty shopping, transient lodging, retail, personal service, restaurant, cultural, fishing industry, affordable housing and entertainment uses in the Old Town area. The MU district

also provides for large-scale retail and commercial business opportunities in other areas, including larger shopping centers, specialty shopping centers, individual multi-tenant commercial buildings, automobile services and sales, fast food restaurants, affordable housing residential uses, transient lodging and other retail establishments that serve the community at large. The (MU) district is designated within the Mixed-use Commercial (MUC) future land use category on the Future Land Use Map (FLUM).”

The proposed project consists of the development of new residential uses and is consistent with the Mixed Use Zoning District. Section 103.15 establishes whether specific uses are allowed as of right, limited, accessory or conditional uses, through Table 103.15.2. That table shows that multifamily residential uses are allowed as Conditional Uses in the MU district. Marinas are also a Conditional Use in MU zoning. Conditional Use review is intended to allow a broader view of the potential impacts of a project on adjacent uses and on City concurrency related resources such as road capacity, solid waste, sewer, and potable water availability.

The project as proposed meets the density constraints imposed on the type of proposed use.

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

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

The proposed project is located within the Mixed Use Commercial Future Land Use District. Policy 1-3.1.4 of the City of Marathon Comprehensive Plan states that 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 proposed project includes development of similar uses which is consistent with the Mixed Use classification.

The existing land use pattern in the project vicinity consists of the restaurants commercial and residential to the east, a mobile home park and gas station to the south, commercial and residential uses to the north, and a restaurant and marina and residential uses to the west.

Otherwise, the redevelopment of the site will result in significant improvement to the site development quality, including upgraded landscaping, stormwater management, and architecture. The improvements are expected to have a positive benefit on the surrounding uses and the City.

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

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

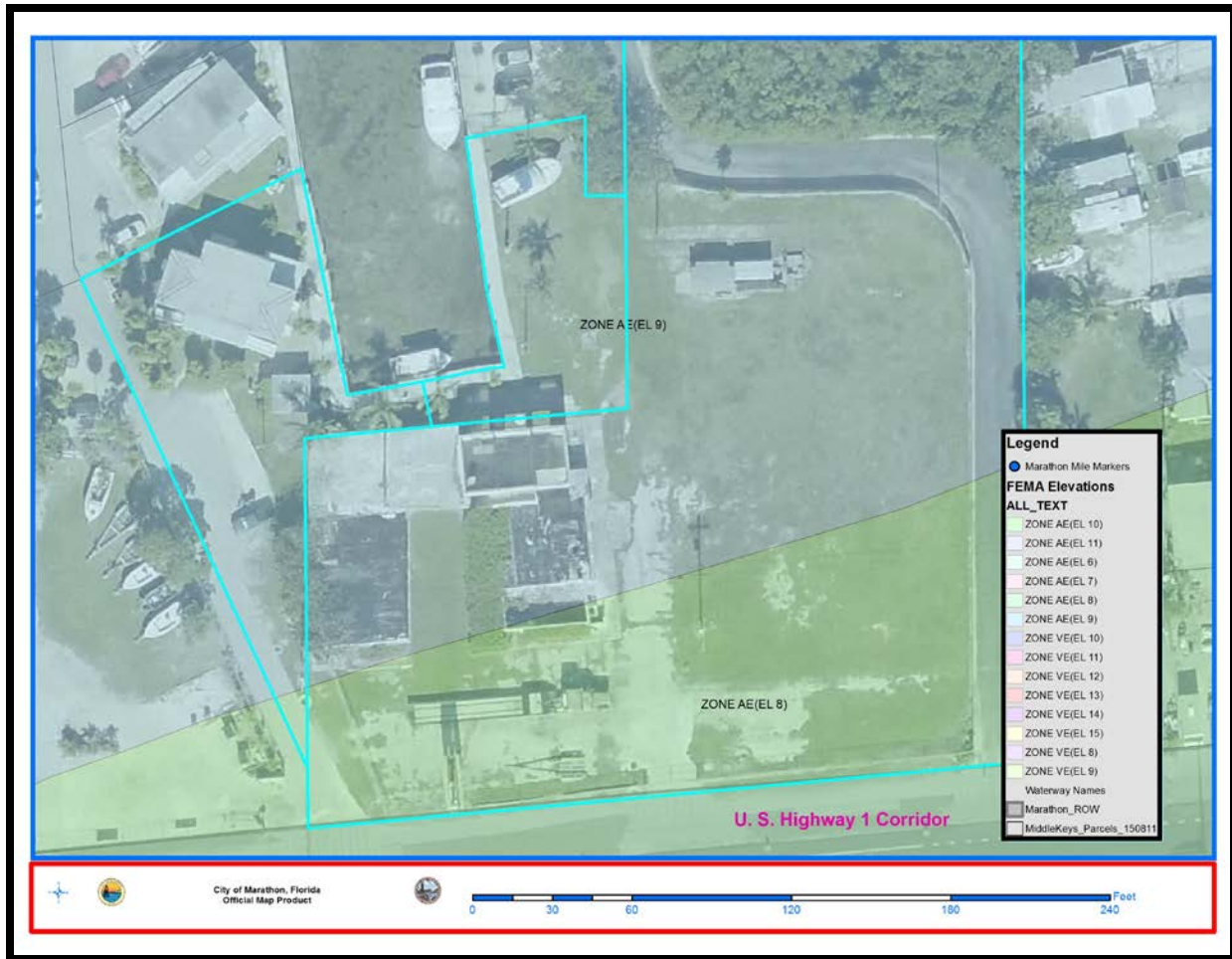
The proposed use is the creation of residential use which has not had any known impact to the health, safety and welfare of the public. Additionally the creation of the office and restaurant space are not expected to create any adverse impacts to the health, safety, and welfare of the public.

The marina will also be required to meet the following criteria as additional protections for health, safety and welfare:

- Will not have a detrimental effect on the use of such waters for navigation, transportation, recreational or other public purposes and public conveniences;
- Will not restrict the free use of the waterways and navigable waters;
- Will not have a material adverse effect upon the flow of water or tidal currents in the surrounding waters;
- Will not have a material adverse effect upon erosion, erosion control, extraordinary storm drainage, shoaling of channels, or would be likely to adversely affect the water quality presently existing in the area or limit progress that is being made toward improvement of water quality in the area;
- Will not have a material adverse effect upon the natural beauty and recreational advantages of the City;
- Will not have a material adverse effect upon the conservation of wildlife, marine life, and other natural resources, including shorelines, so as to be contrary to the public interest;
- Will not have a material adverse effect upon the uplands surrounding or necessarily affected by such plan or development;
- Will not have a material adverse effect on the community character or safety, health and welfare of the general public; or
- Will not be inconsistent with adopted State plans (i.e., manatee protection plans), the City of Marathon Comprehensive Plan, other formally adopted natural resource management plans, or any other City ordinances or regulations.

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

**Figure 6
FEMA Flood Maps**

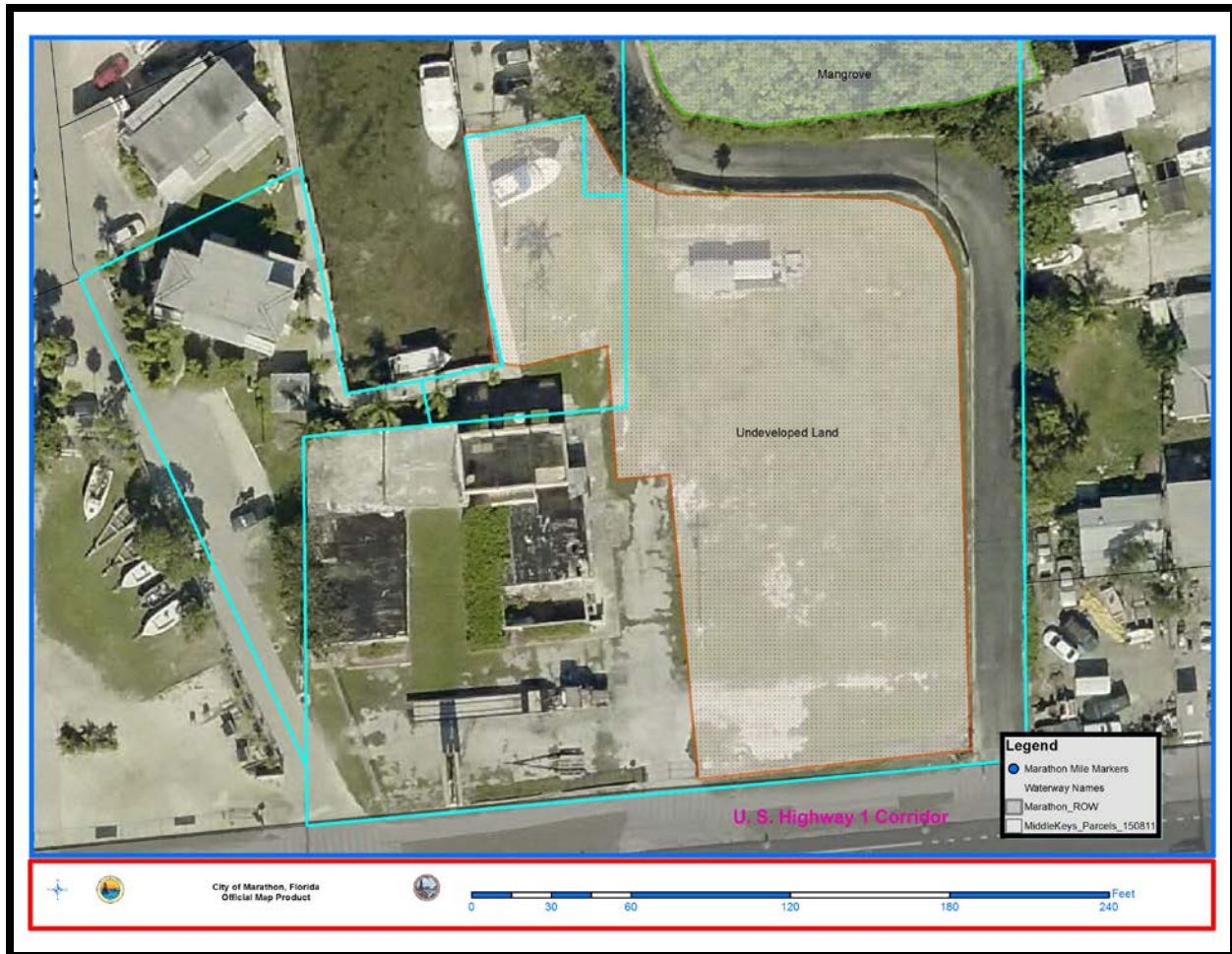


Therefore, the request is ***in compliance*** with the requirements of these sections.

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

The existing conditions maps indicate the subject area is designated as developed, although there are portions that are undeveloped along the mangrove fringes. A site inspection showed the current conditions as scarified with a building near the water. A portion of the property is recognized as possible habitat for a state or federally listed animal species, the eastern indigo snake. Figure 7 shows that this portion falls under the category of mangroves. The portion along the front, identified as undeveloped land would fall out of impact under the Species Assessment Guides. Should any development necessitate the removal of existing native vegetation within these areas an impact determination will be made using the Species Assessment Guides.

Figure 7
Species Focus Area Habitat



Further improvements to water quality are expected to arise from stormwater improvements to the site, which should provide up-to-date treatment and eliminate any existing discharges to surface waters. The applicant has submitted preliminary stormwater plans suitable for the Conditional Use Application, and final plans are required prior to building permit issuance.

Site landscaping will be selected from Table 107.68.1, Appendix A, Article 8, Section 107 of the City of Marathon Code of Ordinances. The native vegetation will improve the environmental quality of the site and reduce irrigation needs.

Pursuant to Article Two of Chapter 106 any native trees within footprints will have to be mitigated. These transplanted and mitigated trees will be monitored per Section 106.10.

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

- Staff requires that upon planning review, if the redevelopment is found to have any effect on the Eastern Indigo Snake Habitat, then the prescribed protection measures must be

- undertaken, and the information poster posted on site.
- A final Landscape/mitigation plan must be submitted prior to permit issuance.

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

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

The applicant has provided a breakdown of the proposed occupancy of the onsite buildings. The “Trip Generation Analysis” schedule provided by the traffic engineer shows that combined uses will create 193 net new daily trips. The submitted study finds that the proposed increase in units will not have an adverse impact on the operating characteristics of U.S. 1, nor will it inhibit the safe flow of traffic traveling through the City of Marathon.

Land Use	Size	Daily Trips	AM Peak Hour Trips			PM Peak Hour Trips		
			In	Out	Total	In	Out	Total
Multifamily	7	12	1	3	4	3	2	5
Office	2000 sq. ft.	32	3	1	4	2	3	5
Coffee w/o drive-thru	1200 sq. ft.	121	62	59	121	22	22	44
Marina	12 berths	28	0	1	1	2	1	3
Total		193	66	64	130	29	28	57

Ingress and egress to the properties is currently provided by an existing driveway, as well as two access roads. The site plan proposes maintaining the existing drive way, and adding additional drive areas to access onto the two adjacent access roads. The trip generation analysis of the traffic study shows that with the analyzed units and commercial, the daily trips generated would be 193. Therefore, the request is **in compliance** with the requirements of these sections.

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

Parking requirements are outlined in Section 107.46 (Parking Schedule). For seven residences, two parking spaces are required for each unit. One space is required for every 10 bedrooms. The twelve berths require 6 parking spaces. Five spaces are required for the office. The coffee shop requires one space every three seats, and one space for every two employees on the largest shift. Therefore an approximate total of 51 spaces must be provided, the applicant proposes 68 spaces. The submitted site plan shows the parking spaces to be located under the residential units, and along the front side and rear of the commercial. A final site plan showing the number and dimensions of the spaces will be required prior to permit issuance.

Section 107.52 includes a requirement that one handicapped space be provided for every 25 spaces required. Based upon the 68 spaces, three ADA spaces are required. Parking space sizes are 9’ x 18’

for 90 degree parking.

This property is located adjacent to the Florida Keys Overseas Heritage Trail. As such, bicycle parking is required at a rate of one space for every ten parking spaces. The final site plan must show the bicycle racks on site prior to permit issuance.

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

- The final site plan must show the required parking spaces with prior to permit issuance.
- The final site plan must show the bicycle racks on site prior to permit issuance.

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

The proposed project consists of redevelopment of an existing abandoned commercial use. The proposed residential and commercial uses do not have any adverse effect through noise, glare or odors; and the proposed use reduces these effects, therefore the proposed uses should have a de minimis impact.

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

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

Section 107.39 requires that all dumpsters and recycling bins be fully enclosed and screened. The final site plan must show the dumpster located on a pad and will have to be screened.

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

- The final site plan must show that the dumpsters are screened.

5. Utilities, with reference to location and availability;

Chapter 107, Article 13, establishes the City's Concurrency Management and certification requirements. This Conditional Use constitutes the City's Concurrency Level of Service Certificate, as follows:

- Wastewater: The applicant will provide wastewater and sewage collection and disposal via proposed sanitary clean outs, the property is currently connected to the City sewer system. This project will constitute an expansion, resulting in a de minimis impact. The applicant must provide utility easements for the proposed alterations.
- 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. This will

provide full topographic survey up 25 feet off-site and centerline of adjacent road.

- Recreation and Open Space: This redevelopment will have a de minimis impact on recreation and open space.
- Roadways: The applicant is redeveloping the site with a higher intensity than was contained within the prior development; therefore, a traffic study was completed to analyze the impact on transportation facilities.
- Educational Facilities: This redevelopment will have a de minimis impact on educational facilities.

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

- City approval is required for the stormwater management system prior to Building Permit Approval. This will provide full topographic survey up 25 feet off-site and centerline of adjacent road.
- City approval of the connection to the City Wastewater Utility will be required.
- A utility easement must be recorded for access and maintenance.
- The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.

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

Table 107.66.1 establishes project boundary buffer standards applicable to the project. The subject parcel is zoned MU and is bordered to the Northeast by property zoned RH, and to the Northwest by property zoned RM. There is a medium project boundary buffer requirement for portions of the project area adjacent to parcels zoned RH. As the access drive for the residential is adjacent to the RM, additional buffering is not recommended as it would hinder clear site. *Both sites are owned by the applicant, so the buffer reduction does no negatively impact adjacent uses. The final landscape plans must be approved by the City Biologist.

Buffer Type	Minimum Width	Canopy Tree	Understory Tree	Non-Deciduous	Shrub	Screening
Medium	15 feet	4	2	2	16	No

Section 107.71 C. requires that all multifamily residential developments provide one of two types of buffers along the entire street frontage. The project is along US1 in Old Town and thus requires a type II buffer.

Table 103.15.2 outlines setback requirements in the MU district as follow: front yard 0-30'; interior side yards 10'; and rear setbacks have a 20' setback from the property line.

Table 106.28.1 outlines that the setback of principal structures on a canal are 20' as measured from MHWL or mangrove fringe whichever is further landward.

This plan shows an 87' setback on the front yard, 62' setback side yard setback nearest the RH parcel, 0' setback for the RM parcel and 15' rear yard setback.

Setback	Required	Required Landscape	Proposed	Compliant
Front	0-30	10	87	Yes
Rear RH	10	15	62	Yes
Rear RM	10	20*	0	Yes**
Rear	20	NA	15	Yes**

The last two rear setbacks in the table, while not standard may be reviewed as compliant based upon the nonconforming setback sections. ** When a structure is nonconforming because it encroaches into a required setback, this provision will be interpreted as allowing other portions of the structure to be expanded as long as there is no further encroachment into a required setback. Additionally, provided that there will be no adverse impacts on surface water runoff or navigation, the setback from the water may be maintained.

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

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

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

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

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

Article 107.54 establishes criteria for lighting, including light pole light limitations and other technical criteria. Final lighting plans will be submitted along with final landscaping plans, and will include verification from the landscape architect that all provisions of the article are met.

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

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

8. Required yards and other open space;

Section 106.16 established required open space for the project. The site is scarified; therefore, a twenty percent open space requirement applies. This results in 10,803 square feet of pervious area (including landscape area).

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

9. General compatibility with surrounding properties; and

The project is a redevelopment of property that has needed improvement and maintenance. Adjacent uses include a commercial establishment and other residential dwelling units. A redevelopment of the property into a mix of residential units and commercial with marina is expected to be fully compatible with these uses. The proposed project represents improvement to the current state of prior development, and is expected to increase compatibility with surrounding properties.

Section 107.40 restricts the height of buildings to 37' as measured from the crown of the roadway or unimproved grade. The site plans show that buildings are below 37'.

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 104.03 Affordable Housing contains special requirements.

The following criteria are applicable to this redevelopment:

- Dwelling units shall contain less than or equal to 1,800 square feet of habitable space.
- Occupancy of affordable housing units is limited to those meeting the following income requirements:
 - Very-low-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 50 percent of the median adjusted gross annual income for households within the county;
 - Low-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 80 percent of the median adjusted gross annual income for households within the county;
 - Median-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 100 percent of the median adjusted gross annual income for households within the county;
 - Moderate-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 120 percent of the median adjusted gross annual income for households within the county;
 - Middle-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 160 percent of the median adjusted gross annual income within the county;
- For the purposes of this section, "adjusted gross income" means all wages, income from assets, regular cash or non-cash contributions or gifts from persons outside the household (that will be used to offset the purchase price of the dwelling unit), and such other resources and benefits as may be determined to be income by the United States Department of Housing and Urban Development, adjusted for family size, less deductions allowable under Section 62 of the Internal Revenue Code. Income from assets is calculated at either the actual income

from all assets or two (2%) percent of the value of all assets, whichever is greater. If total assets are less than \$5,000.00, no income is considered. Asset inclusions: Cash accounts (checking, savings, IRA, Money Market...), investments, retirement accounts, boats, RV's. Income exclusions: Personal property, automobiles;

- The maximum sales price shall not exceed 300 percent of that amount which represents 160 percent of the median adjusted gross annual income for households within the county;
- The monthly rent shall not exceed 30 percent of that amount which represents the income bracket of the household, i.e., very low, low, median, moderate or middle, divided by 12. In no case shall the monthly rent exceed 160 percent of the median adjusted gross annual income for households within the county, divided by 12; and
- If the dwelling units utilize affordable housing BPAS allocations, the requirements of Subsection 107.06(c) shall also apply.
- Annual income qualification, lease or employment verification, as applicable, by the City, or its designee, shall be limited to rental and employee housing dwelling units. Income verification for owner occupied dwellings shall be performed and approved by the City or its designee prior to the sales closing and occupancy of the dwelling unit.

Section 104.48 Residential Dwelling Units contains special requirements.

The following criteria are applicable to this redevelopment:

- 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.

Section 104.42 Outdoor Storage contains special requirements.

- Outdoor storage shall be incidental and subordinate to the primary use located on the property.
- Storage areas shall be located to the side or rear of the principal building and completely screened from view

Section 104.30 Marina contains special requirements.

The following criteria are applicable to this redevelopment:

- Prior to the issuance of any permit under this article, special conditions may be imposed for such permit. These conditions should include any item which can be reasonably expected to enhance the probability that the proposed activity will be conducted in compliance with the intent of this article. Those conditions may include, but are not limited to, field inspections by City staff, reports, monitoring, bonding, easements, guaranteed survival of non-affected and/or replanted vegetation, protective barriers, setbacks, protective earthwork, replants, signage, restoration and/or mitigation. Conditions may also be applied in order to assure consistency with the Comprehensive Plan.
- Prior to the issuance of the Certificate of Occupancy, the marina shall obtain and maintain a Marina Operating Permit, in compliance with all standards of Article 24, Chapter 102.
- It shall be unlawful for any person to deviate from the specific conditions of the permit as set forth by this article without the prior approval of the City Manager.

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

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

CONCLUSION:

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

The proposed redevelopment consists of the replacement and enhancement of neglected property, as well as the development of new residential units and commercial uses on site. As such the development, including the overall upgrading and improvement of the sites, 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 at both project sites, and is not expected to create a nuisance, traffic congestion or threat to public, health, safety or welfare.

RECOMMENDATION:

Planning Commission forwards a unanimous recommendation of conditional approval (1 excused absentee) of the proposed development to the City Council. The proposed conditions of approval are listed below.

Conditions of Approval

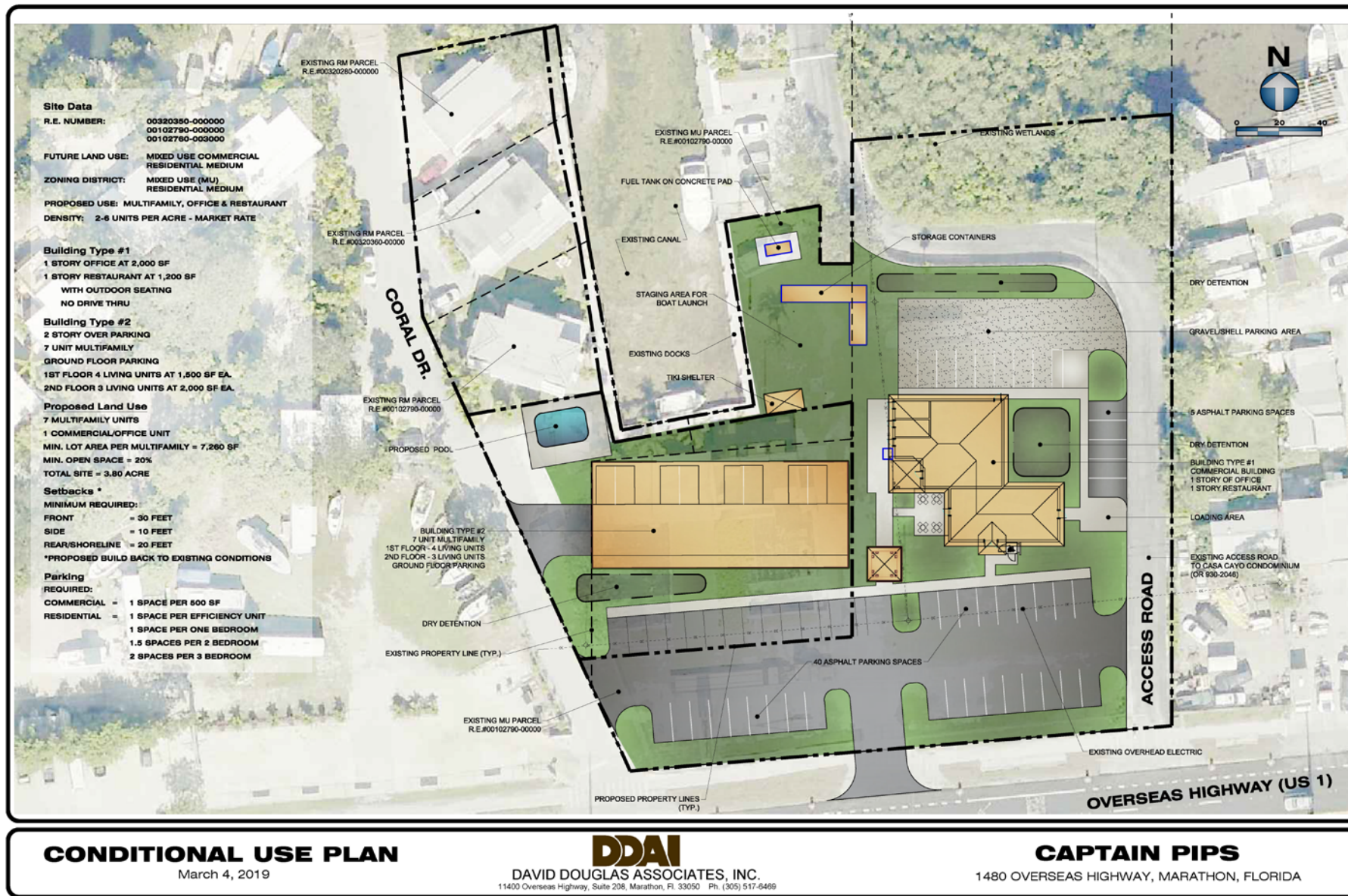
1. A Final Site Plan must be submitted showing the existing (to be retained) and proposed buildings meeting the required setbacks, the specific setbacks for the old building footprint, parking locations, and access drives and all civil engineering features; and
2. City approval of the connection to the City Wastewater Utility is required, including:
 - a. engineering drawings as needed,
 - b. projected wastewater flows, and
 - c. any easements, connections, and projected flows for Casa Cayo.
3. City approval is required for the stormwater management system prior to Building Permit Approval.
4. The applicant will provide fire protection plans in accordance with fire protection requirements as outlined by the City Fire Marshal (attached as Exhibit A)
5. A Final Landscape Plan must be submitted showing the proper treatments and buffers, including the appropriate treatment types and trees.
6. The final site plan must show that the dumpsters are screened.
7. All signs shall be reviewed and approved for compliance with the City of Marathon LDR's.
8. If the redevelopment is found to have any effect on the Eastern Indigo Snake Habitat, then the prescribed protection measures must be undertaken, and the information poster posted on site.
9. All mangroves associated with the northern portion of the parcel, north of the access easement to Casa Cayo, shall remain intact and may not be removed per the City's protection provisions for Mangrove Habitats.
10. For the Affordable unit
 - a. Dwelling units shall contain less than or equal to 1,800 square feet of habitable space.
 - b. Occupancy of affordable housing units is limited to those meeting the following income requirements:
 - i. Very-low-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 50 percent of the median adjusted gross annual income for households within the county;
 - ii. Low-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 80 percent of the median adjusted gross annual income for households within the county;
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 - iv. Moderate-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 120 percent of the median adjusted gross annual income for households within the county;
 - v. Middle-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 160 percent of the median adjusted gross annual income within the county;
 - c. For the purposes of this section, "adjusted gross income" means all wages, income from assets, regular cash or non-cash contributions or gifts from persons outside the household (that will be used to offset the purchase price of the dwelling unit), and such

- other resources and benefits as may be determined to be income by the United States Department of Housing and Urban Development, adjusted for family size, less deductions allowable under Section 62 of the Internal Revenue Code. Income from assets is calculated at either the actual income from all assets or two (2%) percent of the value of all assets, whichever is greater. If total assets are less than \$5,000.00, no income is considered. Asset inclusions: Cash accounts (checking, savings, IRA, Money Market...), investments, retirement accounts, boats, RV's. Income exclusions: Personal property, automobiles;
- d. The maximum sales price shall not exceed 300 percent of that amount which represents 160 percent of the median adjusted gross annual income for households within the county;
 - e. The monthly rent shall not exceed 30 percent of that amount which represents the income bracket of the household, i.e., very low, low, median, moderate or middle, divided by 12. In no case shall the monthly rent exceed 160 percent of the median adjusted gross annual income for households within the county, divided by 12; and
 - f. If the dwelling units utilize affordable housing BPAS allocations, the requirements of Subsection 107.06(c) shall also apply.
 - g. Annual income qualification, lease or employment verification, as applicable, by the City, or its designee, shall be limited to rental and employee housing dwelling units. Income verification for owner occupied dwellings shall be performed and approved by the City or its designee prior to the sales closing and occupancy of the dwelling unit.
 - h. Two (2) side yards are required for stacked duplexes.
 - i. Townhouses are limited to ten (10) dwelling units per row, except for affordable housing.
 - j. The private yard area for rooftop balcony dwelling is provided by the roof or balconies of the structure.
 - k. 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.
 - l. 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.
 - m. 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.
11. Outdoor storage shall be incidental and subordinate to the primary use located on the property.
 12. Storage areas shall be located to the side or rear of the principal building and completely screened from view.
 13. Prior to the issuance of any permit under this article, special conditions may be imposed for such permit. These conditions should include any item which can be reasonably expected to enhance the probability that the proposed activity will be conducted in compliance with the intent of this article. Those conditions may include, but are not limited to, field inspections by City staff, reports, monitoring, bonding, easements, guaranteed survival of non-affected and/or replanted vegetation, protective barriers, setbacks, protective earthwork, replants,

signage, restoration and/or mitigation. Conditions may also be applied in order to assure consistency with the Comprehensive Plan.

14. Prior to the issuance of the Certificate of Occupancy, the marina shall obtain and maintain a Marina Operating Permit, in compliance with all standards of Article 24, Chapter 102.
15. It shall be unlawful for any person to deviate from the specific conditions of the permit as set forth by this article without the prior approval of the Planning Director or City Council as appropriate.
16. A unity of title must be recorded with the Clerk of Courts, prior to permit issuance.
17. Affordable housing deed restrictions must be recorded with the Clerk of Courts, prior to permit issuance
18. The Conditional Use Development Order will constitute the Certificate of Concurrence for the project. The determination will be valid for one year.
19. The Applicant must obtain or transfer seven (7) 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 MARKET RATE RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT.**

Attachments A: Proposed Site Plan



CONDITIONAL USE PLAN

March 4, 2019

DDAI

DAVID DOUGLAS ASSOCIATES, INC.

11400 Overseas Highway, Suite 208, Marathon, FL 33050 Ph. (305) 517-6466

CAPTAIN PIPS

1480 OVERSEAS HIGHWAY, MARATHON, FLORIDA

**CITY OF MARATHON, FLORIDA
RESOLUTION 2019-61**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING A REQUEST FOR A CONDITIONAL USE PERMIT FOR CAPTAIN PIPS HOLDINGS, LLC PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (CODE) ENTITLED “CONDITIONAL USE PERMITS” FOR THE DEVELOPMENT OF A PROPERTY INTO MULTIFAMILY HOUSING, OFFICE AND RESTAURANT, AND MARINA; LOCATED AT 1470 OVERSEAS; WHICH IS LEGALLY DESCRIBED AS PART OF GOVERNMENT LOT 2 AND BAY BOTTOM NORTH OF AND ADJACENT TO LOT 2 AND ADJACENT PORTION OF STATE ROAD 4-A, PART OF GOVERNMENT LOT 2 IN REAR OF HANLEY’S INC, AND BLOCK 3 PART OF LOT 3 AND GOVERNMENT LOT 2 W R THOMPSON SUBDIVISION, SECTION 9, TOWNSHIP 66 SOUTH, RANGE 32, KEY VACCAS, MONROE COUNTY, FLORIDA; HAVING REAL ESTATE NUMBERS 00320350-000000, 00102790-000000, & 00102760-003000, NEAREST MILE MARKER 48.

WHEREAS, Captain Pips Holdings, LLC (The “Applicant”) filed an Application on February 4th, 2019 for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS, said Captain Pips Holdings, LLC property located at 1470 Overseas Highway (RE Nos. 00320350-000000, 00102790-000000, & 00102760-003000) consists of one residential four-plex and an old commercial structure, used most recently as a restaurant; and

WHEREAS, the Applicant has proposed the redevelopment of three (3) existing properties, such that an existing residential four-plex will remain and will build (six (6) market rate residential units and one (1) affordable residential unit in one multi-plex and, in addition, construct 3,200 square feet of commercial and accessory commercial structures; and

WHEREAS, the City staff reviewed the Applicant’s request for a Conditional Use Permit determining that the Applicant’s project proposal is 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 20th day May, 2019, the Planning Commission (the “Commission”) conducted a properly advertised public hearing (the “Public Hearing”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

WHEREAS, on the 11th day June, 2019, the City Council (the “Council”) conducted a properly advertised public hearing (the “Public Hearing”) 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, is consistent with its policy to encourage the development of residential properties and redevelop commercial in Marathon, and will further the health, safety and welfare of the residents of Marathon; and

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 2019-10, a copy of which is attached hereto as Exhibit “A”, granting a Conditional Use Permit to Captain Pips Holdings, 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 execution.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 11th DAY OF JUNE, 2019.

THE CITY OF MARATHON, FLORIDA

John Bartus, 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:

David Migut, City Attorney

**EXHIBIT “A”
CITY OF MARATHON, FLORIDA
CONDITIONAL USE
DEVELOPMENT ORDER # 2019-10**

A DEVELOPMENT ORDER APPROVING A REQUEST FOR A CONDITIONAL USE PERMIT FOR CAPTAIN PIPS HOLDINGS, LLC PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (CODE) ENTITLED “CONDITIONAL USE PERMITS” FOR THE DEVELOPMENT OF A PROPERTY INTO MULTIFAMILY HOUSING, OFFICE AND RESTAURANT, AND MARINA; LOCATED AT 1470 OVERSEAS; WHICH IS LEGALLY DESCRIBED AS PART OF GOVERNMENT LOT 2 AND BAY BOTTOM NORTH OF AND ADJACENT TO LOT 2 AND ADJACENT PORTION OF STATE ROAD 4-A, PART OF GOVERNMENT LOT 2 IN REAR OF HANLEY’S INC, AND BLOCK 3 PART OF LOT 3 AND GOVERNMENT LOT 2 W R THOMPSON SUBDIVISION, SECTION 9, TOWNSHIP 66 SOUTH, RANGE 32, KEY VACCAS, MONROE COUNTY, FLORIDA; HAVING REAL ESTATE NUMBERS 00320350-000000, 00102790-000000, & 00102760-003000, NEAREST MILE MARKER 48.

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WHEREAS, the Applicant has proposed the redevelopment of three (3) existing properties, such that an existing residential four-plex will remain and will build (six (6) market rate residential units and one (1) affordable residential unit in one multi-plex and, in addition, construct 3,200 square feet of commercial and accessory commercial structures; and

WHEREAS, the City staff reviewed the Applicant’s request for a Conditional Use Permit determining that the Applicant’s project proposal is 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 20th day May, 2019, the Planning Commission (the “Commission”) conducted a properly advertised public hearing (the “Public Hearing”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

WHEREAS, on the 11th day June, 2019, the City Council (the “Council”) conducted a properly advertised public hearing (the “Public Hearing”) 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, is consistent with its policy to encourage the development of residential properties and redevelop commercial in Marathon, and will further the health, safety and welfare of the residents of Marathon; and

FINDINGS OF FACT:

1. The Applicant has proposed the redevelopment of three (3) existing properties, such that an existing residential four-plex will remain and will build (six (6) market rate residential units and one (1) affordable residential unit in one multi-plex and, in addition, construct 3,200 square feet of commercial and accessory commercial structures (Site Plan Attached as Attachment 1; and
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. A Final Site Plan must be submitted showing the existing (to be retained) and proposed buildings meeting the required setbacks, the specific setbacks for the old building footprint, parking locations, and access drives and all civil engineering features; and
2. City approval of the connection to the City Wastewater Utility is required, including:
 - a. engineering drawings as needed,
 - b. projected wastewater flows, and

- c. any easements, connections, and projected flows for Casa Cayo.
- 3. City approval is required for the stormwater management system prior to Building Permit Approval.
- 4. The applicant will provide fire protection plans in accordance with fire protection requirements as outlined by the City Fire Marshal (attached as Exhibit A)
- 5. A Final Landscape Plan must be submitted showing the proper treatments and buffers, including the appropriate treatment types and trees.
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- 8. If the redevelopment is found to have any effect on the Eastern Indigo Snake Habitat, then the prescribed protection measures must be undertaken, and the information poster posted on site.
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 - iv. Moderate-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 120 percent of the median adjusted gross annual income for households within the county;
 - v. Middle-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 160 percent of the median adjusted gross annual income within the county;
 - c. For the purposes of this section, "adjusted gross income" means all wages, income from assets, regular cash or non-cash contributions or gifts from persons outside the household (that will be used to offset the purchase price of the dwelling unit), and such other resources and benefits as may be determined to be income by the United States Department of Housing and Urban Development, adjusted for family size, less deductions allowable under Section 62 of the Internal Revenue Code. Income from assets is calculated at either the actual income from all assets or two (2%) percent of the value of all assets, whichever is greater. If total assets are less than \$5,000.00, no income is considered. Asset inclusions: Cash accounts (checking, savings, IRA, Money Market...), investments, retirement accounts, boats, RV's. Income exclusions: Personal property, automobiles;
 - d. The maximum sales price shall not exceed 300 percent of that amount which represents 160 percent of the median adjusted gross annual income for households within the county;
 - e. The monthly rent shall not exceed 30 percent of that amount which represents the income bracket of the household, i.e., very low, low, median, moderate or middle, divided by 12. In no case shall the monthly rent exceed 160 percent of the median adjusted gross annual income for households within the county, divided by 12; and
 - f. If the dwelling units utilize affordable housing BPAS allocations, the requirements of

Subsection 107.06(c) shall also apply.

- g. Annual income qualification, lease or employment verification, as applicable, by the City, or its designee, shall be limited to rental and employee housing dwelling units. Income verification for owner occupied dwellings shall be performed and approved by the City or its designee prior to the sales closing and occupancy of the dwelling unit.
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 - j. The private yard area for rooftop balcony dwelling is provided by the roof or balconies of the structure.
 - k. 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.
 - l. 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.
 - m. 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.
- 11. Outdoor storage shall be incidental and subordinate to the primary use located on the property.
 - 12. Storage areas shall be located to the side or rear of the principal building and completely screened from view.
 - 13. Prior to the issuance of any permit under this article, special conditions may be imposed for such permit. These conditions should include any item which can be reasonably expected to enhance the probability that the proposed activity will be conducted in compliance with the intent of this article. Those conditions may include, but are not limited to, field inspections by City staff, reports, monitoring, bonding, easements, guaranteed survival of non-affected and/or replanted vegetation, protective barriers, setbacks, protective earthwork, replants, signage, restoration and/or mitigation. Conditions may also be applied in order to assure consistency with the Comprehensive Plan.
 - 14. Prior to the issuance of the Certificate of Occupancy, the marina shall obtain and maintain a Marina Operating Permit, in compliance with all standards of Article 24, Chapter 102.
 - 15. It shall be unlawful for any person to deviate from the specific conditions of the permit as set forth by this article without the prior approval of the Planning Director or City Council as appropriate.
 - 16. A unity of title must be recorded with the Clerk of Courts, prior to permit issuance.
 - 17. Affordable housing deed restrictions must be recorded with the Clerk of Courts, prior to permit issuance
 - 18. The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.
 - 19. The Applicant must obtain or transfer seven (7) 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 MARKET RATE RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT.**

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 permit is hereby GRANTED subject to the conditions specified herein.

EFFECTIVE DATE:

This development order shall not take effect for thirty (30) 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

_____ George Garrett
Director of Planning

This Development Order was filed in the Office of the City Clerk of this ____ day of _____, 2019.

_____ 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 Community Affairs 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, please be advised that pursuant to Chapter 9J-1, Florida Administrative Code, this instrument shall not take effect for forty-five (45) days following the rendition to the Florida Department of Community Affairs. 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 Captain Pip’s Holdings LLC, 1410 Overseas Highway, Marathon, FL 33050 this ____ day of _____, 2019.

Diane Clavier, City Clerk

Attachment 1 Approved Site Plan



CITY COUNCIL AGENDA STATEMENT



Meeting Date: June 11, 2019
To: City Council
From: George Garrett, Planning Director
Through: Chuck Lindsey, City Manager

Agenda Item: **Resolution 2019-62**, Consideration Of A Request For A Conditional Use Permit For Midway Specialty Care Center, Inc. Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (Code) Entitled “Conditional Use Permits” For The Development Of A Medical Clinic; Located At 11400 Overseas Highway Units 103 & 104; Which Is Legally Described As Lots 2, 17, And 18 Less The Southerly Seven Feet And Half Vacated Alley, Key Colony Subdivision, Key Vaca, Monroe County, Florida; Having Real Estate Number 00334860-000000, Nearest Mile Marker 53.

APPLICANT/ OWNER: Midway Specialty Care Center, Inc.

AGENT: Read Marathon, LLC

LOCATION: The project site is located at 11400 Overseas Highway at nearest mile marker 53. See Figure 1.

Figure 1
Project Site



REQUEST: A Conditional Use Permit for development of two joined units in the subject property having the real estate numbers 00334860-000000. The Applicant is requesting to establish a medical/dental clinic.

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



LOT SIZE:

Total acreage 0.97 acres or 42,570 square feet.

SURROUNDING ZONING AND USES:

	<u>Zoning</u>	<u>Use</u>
North	Conservation-Native Area and Residential Medium	Key Colony No. 4 Subdivision
East	Mixed Use	Animal Hospital, D' Asign Source, Aquarium, and Key Vaca Bridge
South	Mixed Use and Residential Medium	Curly's Coffee, Capital Bank, and Little Venice Subdivision
West	Mixed Use and Residential Medium	Centennial Bank, Schmitt Bldg, and Key Colony Subdivisions (Plat A, No. 1 & No. 2)

EXISTING CONDITIONS:

The project site consists of a developed shopping center, Town Square Mall, real estate number – 00334860-000000. The applicant is seeking to operate as a medical and dental clinic in offices to be located on the first level of the building.

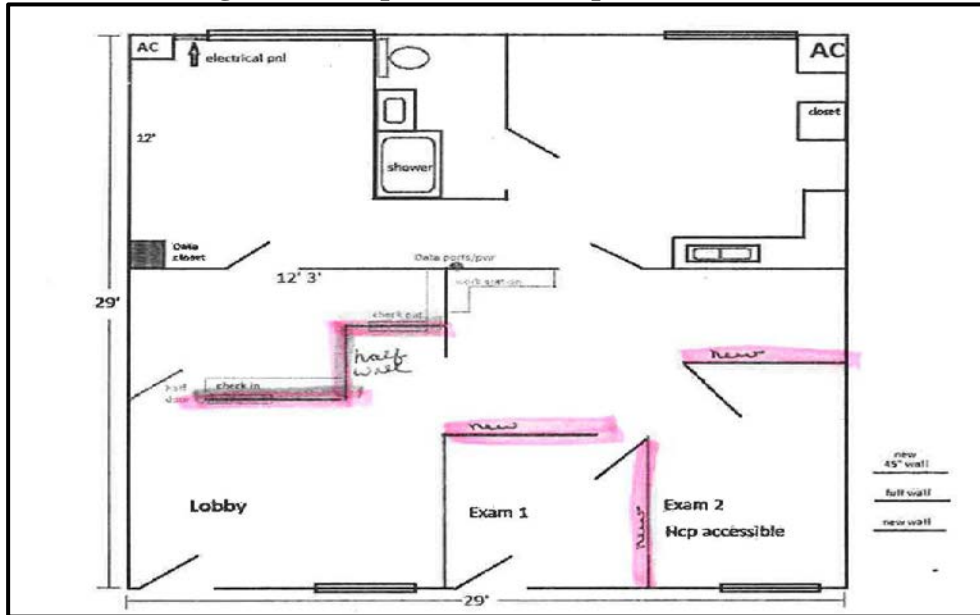
Total Floor Area of Building: 22,069 SF

PROPOSED REDEVELOPMENT:

Commercial Floor Area: 900 SF
Suites #103 & #104

See Figure 4 for Site Plan layout.

Figure 4 - Proposed Redevelopment Site Plan



BACKGROUND:

The proposed project is a redevelopment of existing commercial office space within property and building known as Town Square Mall in order to operate a medical and dental clinic in the Mixed Use zoning classification. This report addresses the request for a Conditional Use Permit.

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

EVALUATION FOR COMPLIANCE WITH THE LAND DEVELOPMENT REGULATIONS:

The criteria for evaluating a Conditional Use Permit is outlined in Chapter 102, Article 13, 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 consists of the redevelopment of existing commercial use within the Mixed Use Zoning District. Section 103.15, Table 103.15.2, “Uses By Zoning District,” establishes whether specific uses are allowed as of right, limited, accessory or conditional use permit. That table shows that medical and dental offices and clinics uses are allowed as Conditional Uses in the MU District. Conditional Use Permit review is intended to allow a broader view of the potential impacts of a project on adjacent uses and on City concurrency related resources such as road capacity, solid waste, sewer, and potable water availability.

Table 103.15.2 in the Land Development Regulations establishes constraints on density and intensity allowed in the MU district based on the types of uses proposed. Using the property area, the proposed use can have up to 60 percent of Office FAR. Table 103.15.3 further qualifies the allowed range of intensities based on the intensity of retail use.

Development Type	Existing	Proposed Redevelopment	Max Allowed	% Total Area
Commercial Floor Area	22,069 SF	900 SF	25,542 SF*	51.8%

The project consists of redeveloping existing space (FAR) which in total is within the allowed FAR @ 60%.

The project as proposed meets the basic definition of development in the MU zoning district.

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

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

The proposed project is located within the Mixed Use Commercial Future Land Use District. Policy 1-3.1.4 of the City of Marathon Comprehensive Plan states that the “principal purpose of the Mixed Use Commercial 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.” The proposed project includes redevelopment of an existing conditional use (Commercial) into a similar conditional use (medical and dental offices and clinics), which is consistent with the Mixed Use classification.

The existing land use pattern in the project vicinity consists of hammocks to the North, Mixed Use and Residential Medium to the South, Commercial to the east and Commercial and Residential homes to the west.

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

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

The proposed conditional use is a redevelopment of an existing use which has not had any known impact to the health, safety and welfare of the public. No new impacts are expected to arise with the redevelopment.

Plans submitted with the project are suitable for the Conditional Use Approval as they relate to Chapter 107, Article 12, 100 Year Floodplain.

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

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

The existing conditions maps indicate the subject area is designated as Developed Land. A site inspection showed the current conditions as scarified with existing buildings and asphalt parking lot.

The applicant is not required to submit a detailed vegetation plan that is compliant with the landscaping requirements.

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

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 is not required to submit a breakdown of the proposed occupancy of the onsite buildings.

Ingress and egress to the property is being provided through driveways onto Overseas Highway and 113th Street.

The redevelopment of these properties will not require additional fire suppression measures.

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

- All conditions of the Fire Marshall must be met prior to permit issuance. There are no known concerns as this is an existing commercial building.

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

Parking requirements are outlined in Section 107.46 (Parking Schedule). The following table shows the parking requirement for the commercial uses on the parcel:

Use	Code Citation	Requirement	Spaces Required
Medical, dental office Medical Clinic	Table 107.46.1	1 per 200 SF GFA	4 spaces

Section 107.52 includes a requirement that one handicapped space be provided for every 25 spaces required. For four (4) spaces, one (1) handicapped spaces are required. Parking space sizes are 9' x 18' for 90 degree parking, and handicapped spaces are 12' x 21' as required by Code. The proposed site plan is consistent with the code requirements for parking and aisle width. Additionally, the applicant proposed that the parking for the medical/dental clinic be handled through the existing parking.

The Code also requires bicycle parking to be provided for educational facilities, multifamily dwellings, commercial, institutional and industrial uses, as well as all developments adjacent to a bike path, at a rate of one (1) space for every ten (10) parking spaces, per Section 107.48, which currently exists on site.

Therefore, with the conditions noted above, 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 project consists of redevelopment of two existing commercial use units. No new lighting will be necessary for this project.

Therefore, with conditions, 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;

5. Utilities, with reference to location and availability;

Chapter 107, Article 13, establishes the City's Concurrency Management and certification requirements. This Conditional Use constitutes the City's Concurrency Level of Service Certificate, as follows:

- Wastewater: This redevelopment will have a de minimis impact on wastewater.
- Water: The Florida Keys Aqueduct Authority currently provides potable water for the facility.
- Solid Waste: Marathon Garbage Service will provide solid waste disposal.
- Surface Water: This redevelopment will have a de minimis impact on surface water.
- Recreation and Open Space: This redevelopment will have a de minimis impact on recreation and open space.
- Roadways: This redevelopment will have a de minimis impact on roadways.

- Educational Facilities: This redevelopment will have a de minimis impact on educational facilities since existing uses are being replaced in kind.

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

- The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for a one year.

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

Table 107.66.1 establishes project boundary buffer standards applicable to the project. The subject parcel is zoned MU and is bordered by properties zoned MU, not requiring a boundary buffer.

Section 107.71 A. requires that parcels with a MU zoning designation provide a Type 1 Streetscape Treatment for all parcels along U.S. 1. The existing landscape plan meets the minimum requirements.

Table 103.15.2 outlines setback requirements in the MU district as follow: front yard 0 – 30’; side yard 1 and 2, 0 – 10; interior side yard, 10; and, street side, 0-5’. Accessory structures, including pools, have a 10’ setback.

Section 107.36 A.1 states that for parcels in the MU district the required interior yard setback may be reduced through the conditional use process. The existing use has an interior setback of 10’, therefore so long as the proposed redevelopment meets all other setback requirements, the interior side setback is allowed at the proposed 10’.

Parking area landscaping is required by Section 107.66 of the Code. The City Biologist has reviewed the submitted parking area landscape plan and has found it to be in compliance with the code.

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

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

A review of sign requirements at this stage in development approval is not necessary. Signs for the project will be reviewed prior to issuance of 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 site is scarified; therefore, a twenty percent open space requirement applies. For the 42,570 SF parcel, the maximum coverage is 8,514 SF. The applicant proposes 900 SF, which exceeds the open space requirement.

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

9. General compatibility with surrounding properties; and

The project is a redevelopment of long standing existing uses in an area of the City which has been acknowledged as an area suitable for redevelopment. Adjacent uses include a commercial establishment and residential uses. A redevelopment of medical and dental clinic is expected to be fully compatible with these uses. The proposed project represents improvement to the current state of prior development, and is expected to increase compatibility with surrounding properties.

Section 107.40 restricts the height of buildings to 37' as measured from the crown of the roadway or unimproved grade. The site plans show that buildings is within the maximum requirement.

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

CONCLUSION:

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

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

RECOMMENDATION:

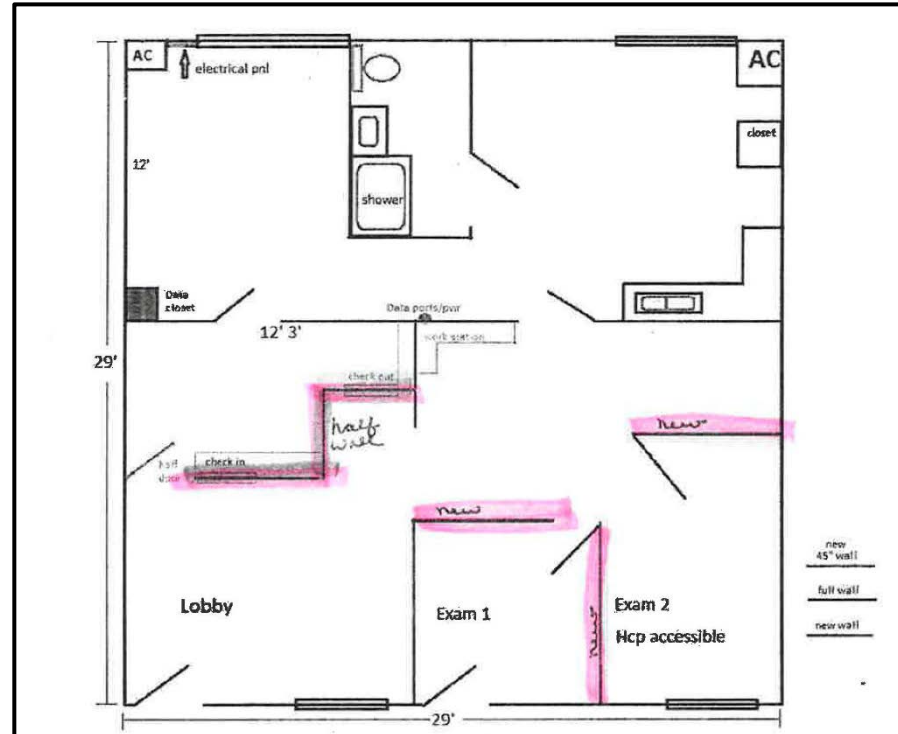
The Planning staff recommends that the Planning Commission forward a recommendation of conditional approval of the medical and dental clinic to the City Council. The proposed conditions of approval are listed below.

Conditions of Approval

- 1) All signs and remodeling applications will be reviewed and approved for compliance with the City of Marathon LDR's.
- 2) Applicant shall provide sinks in each exam room.

Attachments:

Attachment: Proposed Site Plan A



**CITY OF MARATHON, FLORIDA
RESOLUTION 2019-62**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA OF A REQUEST BY MIDWAY SPECIALTY CARE CENTER, INC. FOR A CONDITIONAL USE PERMIT, PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (LDRS) ENTITLED “CONDITIONAL USE PERMITS” FOR THE DEVELOPMENT OF A MEDICAL CLINIC; LOCATED AT 11400 OVERSEAS HIGHWAY UNITS 103 & 104; WHICH IS LEGALLY DESCRIBED AS LOTS 2, 17, AND 18 LESS THE SOUTHERLY SEVEN FEET AND HALF VACATED ALLEY, KEY COLONY SUBDIVISION, KEY VACA, MONROE COUNTY, FLORIDA; HAVING REAL ESTATE NUMBER 00334860-000000, NEAREST MILE MARKER 53.

WHEREAS, Midway Specialty Care Center, Inc. (The “Applicant”) filed an Application on April 3rd, 2019 for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS, the applicant has proposed the development of a medical clinic of 900 square feet; and

WHEREAS, said Midway Specialty Care Center, Inc. property located at 11400 Overseas Hwy, Units 103 & 104 (RE No. 00334860-000000) consists of mixed use commercial uses; and

WHEREAS, the 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 20th day May, 2019, the City of Marathon Planning Commission (the “Commission”) conducted a properly advertised public hearing (the “Public Hearing”) 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, is consistent with its policy to encourage the development of residential properties in Marathon, and will further the health, safety and welfare of the residents of Marathon,

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

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

Section 2. The City Council hereby approves Development Order 2019-11, a copy of which is attached hereto as Exhibit "A", granting a Conditional Use Permit to Midway Specialty Care Center, Inc., 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 execution.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 11th DAY OF JUNE, 2019.

THE CITY OF MARATHON, FLORIDA

John Bartus, 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:

David Migut, City Attorney

EXHIBIT "A"
CITY OF MARATHON, FLORIDA
CONDITIONAL USE
DEVELOPMENT ORDER # 2019-11

A DEVELOPMENT ORDER APPROVING A REQUEST BY MIDWAY SPECIALTY CARE CENTER, INC. FOR A CONDITIONAL USE PERMIT, PERSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (LDRS) ENTITLED "CONDITIONAL USE PERMITS", SEEKING AUTHORIZATION FOR THE DEVELOPMENT OF A MEDICAL CLINIC; LOCATED AT 11400 OVERSEAS HIGHWAY, UNITS 103 & 104; WHICH IS LEGALLY DESCRIBED AS LOTS 2, 17, AND 18 LESS THE SOUTHERLY SEVEN FEET AND HALF VACATED ALLEY, KEY COLONY SUBDIVISION, KEY VACA, MONROE COUNTY, FLORIDA; HAVING REAL ESTATE NUMBER 00334860-000000, NEAREST MILE MARKER 53.

WHEREAS, Midway Specialty Care Center, Inc. (The "Applicant") filed an Application on April 3rd, 2019 for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS, the applicant has proposed the development of a medical clinic of 900 square feet; and

WHEREAS, said Midway Specialty Care Center, Inc. property located at 11400 Overseas Hwy, Units 103 & 104 (RE No. 00334860-000000) consists of mixed use commercial uses; and

WHEREAS, the 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 20th day May, 2019, the City of Marathon Planning Commission (the "Commission") conducted a properly advertised public hearing (the "Public Hearing") 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, is consistent with its policy to encourage the development of residential properties in Marathon, and will further the health, safety and welfare of the residents of Marathon,

FINDINGS OF FACT:

1. The Applicant has proposed the development of a medical clinic of 900 square feet; and
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 and remodeling applications will be reviewed and approved for compliance with the City of Marathon LDR's.
- 2) Applicant shall provide sinks in each exam room.

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 permit is hereby GRANTED subject to the conditions specified herein.

EFFECTIVE DATE:

This development order shall not take effect for thirty (30) 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

_____ George Garrett
Director of Planning

This Development Order was filed in the Office of the City Clerk of this ____ day of _____, 2019.

_____ 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 Community Affairs 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, please be advised that pursuant to Chapter 9J-1, Florida Administrative Code, this instrument shall not take effect for forty-five (45) days following the rendition to the Florida Department of Community Affairs. 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 Read Marathon, LLC – 4601 Ponce de Leon Blvd., Coral Gables, FL 33146 on this ____ day of _____, 2019.

Applicant name: Midway Specialty Care Center, Inc. 3255 S US 1, Fort Pierce, FL 34982
Property owner: READ MARATHON, LLC. 4601 Ponce de Leon Blvd. Coral Gables, FL 33146

Diane Clavier, City Clerk

Sponsored by: Migut
Introduction Date: June 11, 2019
Public Hearing Dates: June 11, 2019
Enactment Date:

**CITY OF MARATHON, FLORIDA
ORDINANCE NO. 2019-11**

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING SECTION 18-125 OF THE CITY CODE REGARDING CIVIL PENALTIES FOR THE POSSESSION OF CANNABIS (MARIJUANA) FOR AMOUNTS UNDER 20 GRAMS AND FOR POSSESSION OF DRUG PARAPHERNALIA; CLARIFYING THE CITATION PROCEDURE; ESTABLISHING A NEW PROCEDURE TO CONTEST A CITATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES INCONSISTENT HERewith; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on April 26, 2016, the City Council of the City of Marathon (the “City Council”) enacted Ordinance No. 2016-04, which gave law enforcement officers the option of issuing city ordinance code violation to a person in possession of less than 20 grams of marijuana; and

WHEREAS, Ordinance 2016-04 has been codified into the City Code of Ordinances (the “City Code”) at Section 18-125; and

WHEREAS, Marathon City Code Section 18-125, *Offenses under state law; Prohibited*, sets forth provisions governing the issuance of a civil citation for possession of less than 20 grams of marijuana; and

WHEREAS, the City Council finds that Marathon City Code Section 18-125 needs clarification to permit law enforcement officers to issue the citations; and

WHEREAS, the City Council finds that Marathon City Code Section 18-125 needs clarification for citizens to understand the procedures used if a civil citation is issued; and

WHEREAS, the City Council finds that Marathon City Code Section 18-125 needs clarification in the procedure the Clerk of the Circuit Court of Monroe County will utilize in processing the citation; and

WHEREAS, the City Council finds that Marathon City Code Section 18-125 needs to be amended to add that that a citation may be referred to the Office of the State Attorney for possible criminal prosecution should the person fail to act on the citation; and

WHEREAS, the City Council finds that Marathon City Code Section 18-125 needs to be amended to update the minimum and maximum fines to be assessed for the citation.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARATHON, AS FOLLOWS:

Section 1. **Recitals.** The above recitals are true and correct and are incorporated herein by this reference.

Section 2. Section 18-125 entitled "Offenses under state law; Prohibited." is hereby amended to read as follows:

Sec 18-125. Offenses under state law; Prohibited.

- (a) It shall be unlawful within the City, for any person to commit any act or fail to perform any duty, the commission of which, or the failure of which, constitutes a misdemeanor under the laws of the State of Florida.
- (b) Whoever shall violate the provisions of this section, upon conviction thereof, shall be punished by the same penalty as is provided by the laws of the State.
- (c) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:
 - (1) Adult shall mean any person 18 years of age or older.
 - (2) Cannabis shall mean all parts of any plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin. The term does not include "low-THC cannabis," as defined in F.S. § 381.986, if manufactured, possessed, sold, purchased, delivered, distributed, or dispensed, in conformance with F.S. § 381.986.
 - (3) Clerk shall mean the Clerk of the Circuit Court of Monroe County, Florida.
 - (4) Drug paraphernalia shall have the same meaning as that term has been defined in F.S. § 893.145. In determining whether an object is drug paraphernalia, a court or other authority or jury shall consider, in addition to all other logically relevant factors, the factors identified in F.S. § 893.146.
 - (5) Marijuana shall have the same meaning as the term "cannabis."

~~(c)~~(d) Notwithstanding subsection (a) the following misdemeanors under State law are eligible to receive a civil violation notice, at the discretion of a law enforcement officer, provided that such violations are not charged in conjunction with any

charge that is a felony, driving under the influence, incident involving domestic violence, or violent crime, as those terms are defined under State law.

- (1) Possession of Marijuana Cannabis in an amount of twenty (20) grams or less, as set forth in section 893.13(6) (b) of Florida Statutes, as such may be amended from time to time; and/or
- (2) Possession of Drug Paraphernalia, as set forth in Section 893.146 and 893.147(1) (b) of Florida Statutes, as such may be amended from time to time.
- (3) Penalties and enforcement.
 - (a) A person violating subsection ~~(e)(d)(1)~~ or ~~(e)(d)(2)~~ shall receive a civil fine of ~~One Hundred Dollars (\$100.00) for first time violators and Two Hundred Fifty Dollars (\$250.00) for repeat violations within a one (1) year period.~~ in the amount of at least \$105.00 but not to exceed \$500.00.
 - (b) Enforcement. The Monroe County Sheriff's Office shall enforce this section within the City. This shall not preclude other law enforcement agencies from any action to assure with this section and all applicable laws. If a police officer finds a violation of ~~(e)(d)(1)~~ or ~~(e)(d)(2)~~, the police officer will be authorized to issue a civil citation. The citation shall inform the violator of the nature of the violation, amount of fine for which the violator is liable, ~~instructions and due date for paying the fine, that the violation may be appealed by requesting an administrative hearing before the code compliance board within ten (10) days after service of the citations, and that the failure to appeal the violation within ten (10) days of service shall constitute an admission of the violation and a waiver of the right to a hearing.~~ and contain at least the following:
 - i. The date and time of issuance;
 - ii. The name and address of the person to whom the citation was issued;
 - iii. The date on which the infraction occurred;
 - iv. The name and title of the law enforcement officer;
 - v. The procedure to pay the penalty or to contest the citation;
 - vi. The applicable penalty if the citation is contested;
 - vii. A conspicuous statement that the violation may be contested by requesting to appear before a county court judge, and that if the violator fails to pay the fine or fails to schedule an appearance to contest before a county court judge, the Clerk shall refer the matter to the Office of the State Attorney for possible criminal prosecution.

- (c) Rights of violators; Payment of fine; Right to appear; Failure to pay civil fine or to appeal; ~~Appeals from decisions of the special magistrate.~~
- i. A violator who has been served with a civil citation under this Section must elect to either:
 - a. pay the civil fine in the manner indicated on the citation; The minimum penalty for a violation shall be a fine in the amount of at least \$105.00 but not to exceed \$500.00; or
 - ~~b. request an administrative hearing before the code compliance board to appeal the citation, which must be requested within ten (10) days of the service of the citation.~~
 - b. contact the Clerk to schedule a court hearing within thirty (30) days of the issuance of the citation to contest the citation.
 - ii. ~~The procedures for appeal by administrative hearing of the citation shall be as set forth in this section and section 10-8 of the City Code. Applications for hearings must be accompanied by a Fifty Dollar (\$50.00) administrative fee, which shall be refunded if the named violator prevails in the appeal.~~
 - iii. ~~If the named violator, after issuance of the civil citation, fails to pay the civil fine, or fails to timely request an administrative hearing before the code compliance board, the City's code director may be informed of such failure by report from the police officer. The failure of the named violator to appeal the decision of the police officer within the prescribed time period shall constitute a waiver of the violator's right to an administrative hearing before the code compliance board, and shall be treated as an admission of the violation, for which fines and penalties shall be assessed accordingly.~~
 - iv. ~~A certified copy of an order imposing a fine may be recorded in the public records, and thereafter shall constitute a lien upon any real or personal property owned by the violator, which may be enforced in the same manner as a court judgement by the sheriffs of this state, including levy against~~

~~the violator's real or personal property, but shall not be deemed to be a court judgement except for enforcement purposes. On or after the sixty first (61st) day following the recording of any such lien that remains unpaid, the City may foreclose or otherwise execute upon the lien.~~

~~v. Any party aggrieved by a decision of the code compliance board may appeal that decision to a court of competent jurisdiction.~~

~~vi. The code compliance board shall be prohibited from hearing the merits of the citation or considering the timeliness of a request for an administrative hearing if the violator has failed to request an administrative hearing within ten (10) days of the service of the citation.~~

~~vii. The code compliance board shall not have discretion to alter the penalties described herein.~~

ii. *Uncontested citation.* If the person cited does not contest the citation, the penalty shall be \$105.00, which shall be paid within (30 days) of the issuance of the citation, by U.S. Mail or in person at the Clerk's office. The Clerk is authorized to establish procedures for accepting payment by mail for uncontested citations.

iii. *Contested citation.* If the person contests the citation he shall, within thirty (30) days of the issuance of the citation, contact the Clerk to schedule a court hearing. The Clerk shall provide a court date for the person cited and to the issuing office to appear before a county court judge. After a hearing, if the Court finds that a violation of this provision has occurred, fines up to \$500, plus court costs, may be imposed by the court. The Court may make a finding that the person cited has an inability to pay the citation and may order court supervised community service in lieu of the fine.

iv. *Referral to the Office of the State Attorney.* If the named violator fails to pay the civil fine, or fails to contact the Clerk to schedule a court hearing to contest the citation, the Clerk shall forward the citation to the Office of the State Attorney to review for possible criminal prosecution under state law.

v. *Inability to pay uncontested citation.* If the person cited has an inability to pay the minimum fine amount, the person

cited shall follow the procedure described in subsection (iii) above.

d. Applicability. Juvenile offenders are not eligible to be charged under this section.

Section 3. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance is 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 4. Repeal of Conflicting Provisions. The provisions of the Code and all Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 5. Effective Date. This Ordinance shall become effective immediately upon adoption.

PASSED AND ADOPTED on the second reading this ___ day of _____, 2019.

Mayor John Bartus

ATTEST:

Diane Clavier, City Clerk

Approved As To Form and Legality for the Use and Reliance of the City Of Marathon Only

David Migut, City Attorney

COUNCIL AGENDA STATEMENT



Meeting Date: June 11, 2019
To: Honorable Mayor and City Councilmembers
From: Jennifer Johnson, Finance Director
Through: Charles Lindsey, City Manager

Agenda Item: **Resolution 2019 -63**, Approving A Two Year Extension To The Agreement Between The City Of Marathon And Keefe, McCullough & Co., LLP For Auditing Services; Authorizing The City Manager To Expend Budgeted Funds On Behalf Of The City; And Providing For An Effective Date.

BACKGROUND & JUSTIFICATION:

Council approved Resolution 2016-112 on December 13, 2016, authorizing an engagement with Keefe, McCullough & Co., LLP to conduct the City’s annual audits in accordance with government auditing standards for Fiscal Year 2016-2017 through 2017-2018 with the option of renewal extensions. Staff has been pleased with this vendor’s work and consequently is recommending that the contact be extended for two additional years. The engagement letter includes a total maximum price of \$51,000 and \$52,000 for the audits of the fiscal years ending September 30, 2019 and 2020, respectively.

This resolution authorizes the City Manager to enter into the auditing services agreement with Keefe, McCullough & Co., LLP, which is attached to this Resolution.

CONSISTENCY CHECKLIST:

	Yes	No
1. Comprehensive Plan	_____	_____
2. Other _____	_____	_____
3. Not applicable _____		

FISCAL NOTE:

Approval will require appropriation during the FY20 and FY21 budget process (*FY19 audit will be completed and billed in FY20 and F20 audit will be completed and billed in FY21*). It should also be noted that the City pays the auditors hotel costs directly; therefore, those expenses are not included in the price quotes.

RECOMMENDATION: Council approve Resolution

**CITY OF MARATHON, FLORIDA
RESOLUTION 2019-63**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING A TWO YEAR EXTENSION TO THE AGREEMENT BETWEEN THE CITY OF MARATHON AND KEEFE, MCCULLOUGH & CO., LLP FOR AUDITING SERVICES; AUTHORIZING THE CITY MANAGER TO EXPEND BUDGETED FUNDS ON BEHALF OF THE CITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on December 13, 2016, the City Council approved Resolution 2016-112, authorizing an agreement with Keefe, McCullough & Co., LLP to conduct the City's annual audits in accordance with government auditing standards for Fiscal Year 2016-2017 through 2017-2018 with the option of renewal extensions; and

WHEREAS, the City desires to extend the agreement with Keefe, McCullough and Co., LLP for auditing services for two additional years in an amount not to exceed \$51,000 and \$52,000 for the annual financial audit of the fiscal years ending September 30, 2019 and 2020, respectively.

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. A two year extension of the Agreement between the City and Keefe, McCullough and Co. LLP for professional auditing services is hereby approved. The City Manager is authorized to expend budgeted funds on behalf of the City.

Section 3. This resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 11th DAY OF JUNE, 2019.

THE CITY OF MARATHON, FLORIDA

John Bartus, 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:**

David Migut
City Attorney

May 16, 2019

Mr. Chuck Lindsey, City Manager and
Members of the City Commission
City of Marathon, Florida
8085 Overseas Highway Marathon, FL 33050

Dear Mr. Lindsey and City Commission Members:

We are pleased to confirm our understanding of the services we are to provide the City of Marathon, Florida (the "City") for the year ending September 30, 2019 with an option to extend the contract for one additional fiscal year. We will audit the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information, including the related notes to the financial statements, which collectively comprise the basic financial statements, of the City as of and for the year ending September 30, 2019 with an option to extend the contract for one additional fiscal year. Accounting standards generally accepted in the United States of America provide for certain required supplementary information, such as management's discussion and analysis (MD&A), to supplement the City's basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the City's RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

1. Management's Discussion and Analysis.
2. Other Post-Employment Health Care Benefits (OPEB) Schedules.
3. Florida Retirement System (FRS) Pension Schedules.
4. Firefighters' Pension Trust Schedules.

We have also been engaged to report on supplementary information other than RSI that accompanies the City's financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America, and we will provide an opinion on it in relation to the financial statements as a whole, in a report combined with our auditor's report on the financial statements:

1. Schedule of Expenditures of Federal Awards and State Financial Assistance.
2. Combining and Individual Fund Financial Statements and Schedules.
3. Budgetary Comparison Schedules

The following other information accompanying the financial statements will not be subjected to the auditing procedures applied in our audit of the financial statements, and our auditor's report will not provide an opinion or any assurance on that other information:

1. Introductory Section
2. Statistical Section

Audit Objectives

The objective of our audit is the expression of opinions as to whether your financial statements are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles and to report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statements as a whole. The objective also includes reporting on-

- Internal control over financial reporting and compliance with provisions of laws, regulations, contracts, and award agreements, noncompliance with which could have a material effect on the financial statements in accordance with *Government Auditing Standards*.
- Internal control over compliance related to major programs and projects and an opinion (or disclaimer of opinion) on compliance with federal and state statutes, regulations, and the terms and conditions of federal awards and state projects that could have a direct and material effect on each major program and project in accordance with the Single Audit Act Amendments of 1996 and Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) and the Department of Financial Services State Projects Compliance Supplement.

The *Government Auditing Standards* report on internal control over financial reporting and on compliance and other matters will include a paragraph that states that (1) the purpose of the report is solely to describe the scope of testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance, and (2) the report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. The Uniform Guidance and Chapter 10.550, Rules of the Auditor General report on internal control over compliance will include a paragraph that states that the purpose of the report on internal control over compliance is solely to describe the scope of testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance and Chapter 10.550, Rules of the Auditor General. Both reports will state that the report is not suitable for any other purpose.

Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America; the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; the Single Audit Act Amendments of 1996; the provisions of the Uniform Guidance; Chapter 10.550, Rules of the Auditor General, and will include tests of accounting records, a determination of major program(s) in accordance with the Uniform Guidance and Chapter 10.550, Rules of the Auditor General, and other procedures we consider necessary to enable us to express such opinions. We will issue written reports upon completion of our single audit. Our reports will be addressed to the Honorable Mayor, City Commission and the City Manager. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions or add emphasis-of-matter or other-matter paragraphs. If our opinions on the financial statements or the single audit compliance opinions are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or issue reports, or we may withdraw from this engagement.

Audit Procedures-General

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. We will plan and perform the audit to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the government or to acts by management or employees acting on behalf of the government. Because the determination of abuse is subjective, *Government Auditing Standards* do not expect auditors to provide reasonable assurance of detecting abuse.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements or noncompliance may exist and not be detected by us, even though the audit is properly planned and performed in accordance with U.S. generally accepted auditing standards and *Government Auditing Standards*. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements or major programs. However, we will inform the appropriate level of management of any material errors, any fraudulent financial reporting, or misappropriation of assets that come to our attention. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential, and of any material abuse that comes to our attention. We will include such matters in the reports required for a single audit. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include tests of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will require certain written representations from you about your responsibilities for the financial statements; schedule of expenditures of federal awards and state financial assistance; federal and state award programs; compliance with laws, regulations, contracts, and grant agreements; and other responsibilities required by generally accepted auditing standards.

Audit Procedures-Internal Control

Our audit will include obtaining an understanding of the government and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

As required by the Uniform Guidance and Chapter 10.550, Rules of the Auditor General, we will perform tests of controls over compliance to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with compliance requirements applicable to each major federal award program and state project. However, our tests will be less in scope than would be necessary to render an opinion on those controls and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to the Uniform Guidance and Chapter 10.550, Rules of the Auditor General.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards, *Government Auditing Standards*, the Uniform Guidance and Chapter 10.550, Rules of the Auditor General.

Audit Procedures-Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the City's compliance with provisions of applicable laws, regulations, contracts, and agreements, including grant agreements. However, the objective of those procedures will not be to provide an opinion on overall compliance and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

The Uniform Guidance and Chapter 10.550, Rules of the Auditor General requires that we also plan and perform the audit to obtain reasonable assurance about whether the auditee has complied with applicable federal and state statutes, regulations, and the terms and conditions of federal and state awards applicable to major programs and projects. Our procedures will consist of tests of transactions and other applicable procedures described in the OMB Compliance Supplement and Chapter 10.550, Rules of the Auditor General for the types of compliance requirements that could have a direct and material effect on each of the City's major programs and projects. The purpose of these procedures will be to express an opinion on the City's compliance with requirements applicable to each of its major programs and projects in our report on compliance issued pursuant to the Uniform Guidance and Chapter 10.550, Rules of the Auditor General.

Other Services

We will also assist in preparing the financial statements, schedule of expenditures of federal awards and state financial assistance, and related notes of the City in conformity with U.S. generally accepted accounting principles and the Uniform Guidance and Chapter 10.550, Rules of the Auditor General based on information provided by you. These nonaudit services do not constitute an audit under *Government Auditing Standards* and such services will not be conducted in accordance with *Government Auditing Standards*. We will perform the services in accordance with applicable professional standards. The other services are limited to the financial statements, schedule of expenditures of federal awards and state financial assistance, and related notes services previously defined. We, in our sole professional judgment, reserve the right to refuse to perform any procedure or take any action that could be construed as assuming management responsibilities.

Management Responsibilities

Management is responsible for (1) designing, implementing, establishing and maintaining effective internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error, including internal controls over federal and state awards, and for evaluating and monitoring ongoing activities, to help ensure that appropriate goals and objectives are met; (2) following laws and regulations; (3) ensuring that there is reasonable assurance that government programs are administered in compliance with compliance requirements; and (4) ensuring that management and financial information is reliable and properly reported. Management is also responsible for implementing systems designed to achieve compliance with applicable laws, regulations, contracts, and grant agreements. You are also responsible for the selection and application of accounting principles; for the preparation and fair presentation of the financial statements, schedule of expenditures of federal awards and state financial assistance, and all accompanying information in conformity with U.S. generally accepted accounting principles; and for compliance with applicable laws and regulations (including federal and state statutes) and the provisions of contracts and grant agreements (including award agreements). Your responsibilities also include identifying significant contractor relationships in which the contractor has responsibility for program compliance and for the accuracy and completeness of that information.

Management is also responsible for making all financial records and related information available to us and for the accuracy and completeness of that information. You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, (2) access to personnel, accounts, books, records, supporting documentation, and other information as needed to perform an audit under the Uniform Guidance and Chapter 10.550, Rules of the Auditor General, (3) additional information that we may request for the purpose of the audit, and (4) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence.

Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the government complies with applicable laws, regulations, contracts, agreements, and grants. Management is also responsible for taking timely and appropriate steps to remedy fraud and noncompliance with provisions of laws, regulations, contracts, and grant agreements, or abuse that we report. Additionally, as required by the Uniform Guidance and Chapter 10.550, Rules of the Auditor General, it is management's responsibility to evaluate and monitor noncompliance with federal and state statutes, regulations, and the terms and conditions of federal and state awards, take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings, promptly follow up and take corrective action on reported audit findings and to prepare a summary schedule of prior audit findings and a separate corrective action plan. The summary schedule of prior audit findings should be available for our review during our preliminary work.

You are responsible for identifying all federal and state awards received and understanding and complying with the compliance requirements and for the preparation of the schedule of expenditures of federal awards and state financial assistance (including notes and noncash assistance received) in conformity with the Uniform Guidance and Chapter 10.550, Rules of the Auditor General. You agree to include our report on the schedule of expenditures of federal awards and state financial assistance in any document that contains and indicates that we have reported on the schedule of expenditures of federal awards and state financial assistance. You also agree to include the audited financial statements with any presentation of the schedule of expenditures of federal awards and state financial assistance that includes our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the schedule of expenditures of federal awards and state financial assistance in accordance with the Uniform Guidance and Chapter 10.550, Rules of the Auditor General; (2) you believe the schedule of expenditures of federal awards and state financial assistance, including its form and content, is stated fairly in accordance with the Uniform Guidance and Chapter 10.550, Rules of the Auditor General; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the schedule of expenditures of federal awards and state financial assistance.

You are also responsible for the preparation of the other supplementary information, which we have been engaged to report on, in conformity with U.S. generally accepted accounting principles. You agree to include our report on the supplementary information in any document that contains, and indicates that we have reported, on the supplementary information. You also agree to include the audited financial statements with any presentation of the supplementary information that includes our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the supplementary information in accordance with GAAP; (2) you believe the supplementary information, including its form and content, is fairly presented in accordance with GAAP; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying and providing report copies of previous financial audits, attestation engagements, performance audits, or other studies related to the objectives discussed in the Audit Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions, for the report, and for the timing and format for providing that information.

You agree to assume all management responsibilities relating to the financial statements, schedule of expenditures of federal awards and state financial assistance, and related notes, and any other nonaudit services we provide. You will be required to acknowledge in the management representation letter our assistance with preparation of the financial statements, schedule of expenditures of federal awards and state financial assistance, and related notes and that you have reviewed and approved the financial statements, schedule of expenditures of federal awards and state financial assistance, and related notes prior to their issuance and have accepted responsibility for them. Further, you agree to oversee the nonaudit services by designating an individual, preferably from senior management, with suitable skill, knowledge, or experience; evaluate the adequacy and results of those services; and accept responsibility for them.

Engagement Administration, Fees, and Other

We understand that your employees will prepare all cash, accounts receivable, or other confirmations we request and will locate any documents selected by us for testing.

At the conclusion of the engagement, we will complete the appropriate sections of the Data Collection Form that summarizes our audit findings. It is management's responsibility to electronically submit the reporting package (including financial statements, schedule of expenditures of federal awards, summary schedule of prior audit findings, auditors' reports, and corrective action plan) along with the Data Collection Form to the Federal Audit Clearinghouse. We will coordinate with you the electronic submission and certification. If applicable, we will provide copies of our report for you to include with the reporting package you will submit to pass-through entities. The Data Collection Form and the reporting package must be submitted within the earlier of 30 calendar days after receipt of the auditors' reports or nine months after the end of the audit period.

We will provide copies of our reports to the City; however, management is responsible for distribution of the reports and the financial statements. Unless restricted by law or regulation, or containing privileged and confidential information, copies of our reports are to be made available for public inspection.

The audit documentation for this engagement is the property of Keefe McCullough and constitutes confidential information. However, subject to applicable laws and regulations, audit documentation and appropriate individuals will be made available upon request and in a timely manner to the Auditor General or its designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of Keefe McCullough personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

The audit documentation for this engagement will be retained for a minimum of five years after the report release date or for any additional period requested by the agencies listed above. If we are aware that a federal awarding agency, pass-through entity, or auditee is contesting an audit finding, we will contact the party(ies) contesting the audit finding for guidance prior to destroying the audit documentation.

Our fee for these services will be charged based on our standard hourly rates included in our proposal and we have included a schedule which includes our "not to exceed" annual fee for these services. In addition, the City will continue to pay reasonable lodging costs. Our invoices for these services will be rendered each month as work progresses and are payable on presentation. This engagement may be renewed based on the mutual agreement to all terms, including fees, of both parties.

Our fees are based upon anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs.

We appreciate the opportunity to be of service to the City of Marathon, Florida and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us.

Very truly yours,

KEEFE McCULLOUGH

William G. Benson, CPA

William G. Benson, C.P.A.

Cindy Calvert

Cynthia L. Calvert, C.P.A.

RESPONSE:

This letter correctly sets forth the understanding of the City of Marathon, Florida.

Management Signature

Governance Signature

Title

Title

Date

Date

CPA's + Trusted Advisors

<u>Year Ending September 30,</u>		
2019	\$	51,000
OPTION YEAR:		
2020	\$	52,000

We have included below a chart which reflects our firm's quoted hourly rates which would apply for any services outside the scope of the audit engagement. These types of requests will be negotiated at the following rates:

Partners	\$	300
Managers	\$	150
Supervisory Staff	\$	125
Senior Accountant	\$	100
Staff	\$	80



COUNCIL AGENDA STATEMENT

Meeting Date: June 11, 2019
To: Honorable Mayor and City Councilmembers
From: Eric Dunford, Deputy Fire Chief
Through: Chuck Lindsey, City Manager

Agenda Item: Resolution 2019-64 Approving A Memorandum Of Understanding (MOU) Between The Monroe County School District Division Of Career And Technical Education (MCSD) And The City Of Marathon, Florida, Creating MCSD's Fire Academy At Marathon High School To Provide Fire Fighting Training To High School And Adult Students; and Providing For An Effective Date.

BACKGROUND & JUSTIFICATION:

Establishing this program shall assist in the great need for training and hiring local employees. The intended purpose of this program would be to train local students with the intent for them to become employed with the City of Marathon. MCSD Will Compensate The City Of Marathon An Estimated Total Of \$52,280.

CONSISTENCY CHECKLIST:

Table with 3 columns: Item, Yes, No. Row 1: 1. Comprehensive Plan, Yes: blank, No: blank. Row 2: 2. Other _____, Yes: blank, No: blank. Row 3: 3. Not applicable _____, Yes: blank, No: blank.

FISCAL NOTE:

This MOU will allow the City to collect an estimated \$52,280 per year to offset the cost of the program.

RECOMMENDATION:

Council approve Resolution

**CITY OF MARATHON, FLORIDA
RESOLUTION 2019-64**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING A MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE MONROE COUNTY SCHOOL DISTRICT DIVISION OF CAREER AND TECHNICAL EDUCATION (MCSD) AND THE CITY OF MARATHON, FLORIDA, CREATING MCSD'S FIRE ACADEMY AT MARATHON HIGH SCHOOL TO PROVIDE FIRE FIGHTING TRAINING TO HIGH SCHOOL AND ADULT STUDENTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, establishing this program will assist in the great need for training and hiring local employees. The intended purpose of this program would be to train local students with the intent for them to become employed with the City of Marathon; and

WHEREAS, the Monroe County School District Division of Career and Technical Education (MCSD) will compensate the City of Marathon an estimated total of \$52,280.00.

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 authorizes the City Manager to enter into this MOU with the Monroe County School District Division of Career and Technical Education (MCSD) attached hereto as Exhibit "A," together with such non-material changes as may be acceptable to the City Manager and approved as to form and legality by the City Attorney is hereby approved.

Section 3. This resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 11th DAY OF JUNE, 2019.

THE CITY OF MARATHON, FLORIDA

John Bartus, 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:**

David Migut, City Attorney

MEMORANDUM OF UNDERSTANDING
Between the Monroe County School District
And
The City of Marathon, Florida

PARTIES: This Memorandum of Understanding (MOU) is entered into between the Monroe County School District Division of Career and Technical Education (MCSD) and the City of Marathon, Florida, a municipal corporation (hereinafter “City”).

PURPOSE: The purpose of this MOU is to enable the MCSD’s Fire Academy at Marathon High School and the City’s Fire Department to provide Fire Fighting training to high school and adult students.

AUTHORITY: This MOU is entered into by and between the parties in exercise of the authority set forth in conformance with the Florida Department of Education’s State Plan for Career and Technical Education and the Introduction to Fire Fighting Instructional Framework.

TERM: This MOU shall become effective upon the date of execution by both the parties and shall continue for the period ending on June 30, 2020.

SCOPE OF SERVICES:

- A. The City represents that the Lead Instructor of the program operated with respect to this MOU possess and will hold a valid State of Florida or Monroe County Teaching Credential that authorizes the teaching of the vocational subject.
- B. The facilities to be provided by the City’s Fire Department to conduct the program specified herein shall meet the requirements of the State and local safety and health regulations during the term of this MOU. Equipment and instructional
- C. The City’s Fire Department shall maintain daily records of student attendance and achievement in accordance with MCSD Policy and shall prepare and submit a report of attendance and achievement in the student information system provided by the MCSD on a daily basis. City’s Fire Department attendance and achievement records shall be available for review and audit by an independent auditor and the authorized representative of the MCSD Division of Career and Technical Education. Such records shall be maintained by the city’s Fire Department for a period of five (5) years after the close of each school year. These records will be permanently maintained by the MCSD. All attendance of students enrolled in the program operated by the City’s Fire Department pursuant to this MOU shall be credited to the MCSD Full Time Equivalency (FTE) as reported to the Florida Department of Education.
- D. The City’s Fire Department shall provide instruction, training, facilities, equipment, supervision and other services for no more than the number of students authorized by the MCSD to the extent of the approved hours as specified by the instructional plan.

- E. The MCSD will pay the City not to exceed \$52,280.00 during the term of this agreement. Payment shall be made upon receipt of an itemized invoice accompanied by a report, which will list the names of students and number of hours each student was in attendance in the program. Payments shall be made quarterly, each in the amount of \$13,070.00 The City's Fire Department shall accept new students authorized by the MCSD at the beginning of each enrollment period and shall provide each of the new students with the number of hours of instruction as specified herein.
- F. Neither the MCSD nor the City of Marathon Fire Department will discriminate against any person because of race, color, religion, sex, marital status, national origin, parental status, age or handicap, as required by law.

INSURANCE:

During the term of this MOU, MCSD shall provide to the City, and City shall provide to MCSD, a current certificate of policy evidencing its comprehensive and general liability insurance coverage in a sum not less than \$1,000,000 Aggregate and \$1,000,000 per occurrence. Any and all insurance coverage may be provided by a City of Marathon Self-Insurance program. City of Marathon and MCSD shall provide notice to the other of any change in or limitation of coverage or cancellation of the policy no less than thirty (30) days prior to the effective date of the change, limitation or cancellation.

INDEMNIFICATION:

- A. To the extent authorized by law, the City hereby agrees to defend, indemnify, and hold harmless MCSD from any and all loss, damage, liability, or expense in connection with any action, proceeding, or claim for injury, including death to any person or persons, or damage to, loss of the use of, or loss of tangible property of any person, firm, or corporation, including the parties hereto, arising or resulting out of the performance of this contract, but only to the extent caused or incurred by the negligence or other actionable fault of the City or its agent. This obligation shall be limited to a maximum amount of the sovereign immunity limits of liability prescribed in 768.28, Florida Statutes, namely \$200,000 per person or \$300,000 per occurrence, and the City will have no further obligation to defend or hold harmless MCSD in the event said limits are paid or are otherwise exhausted. Nothing contained herein shall be construed to alter or waive the City's sovereign immunity under 768.28, Florida Statutes. MCSD acknowledges that indemnification by the City may be unenforceable under Florida law, and that the City does not waive any legal defense based on the unenforceability of such indemnification position.
- B. To the extent authorized by law, MCSD hereby agrees to defend, indemnify, and hold harmless City of Marathon from any and all loss, damage, liability, or expense in connection with any action, proceeding, or claim for injury, including death to any person or persons, or damage to, loss of the use of, or loss of tangible property of any person, firm, or corporation, including the parties hereto, arising or resulting out of the

performance of this contract, but only to the extent caused or incurred by the negligence or other actionable fault of MCSD or its agent. This obligation shall be limited to a maximum amount of the sovereign immunity limits of liability prescribed in 768.28, Florida Statutes, namely \$200,000 per person or \$300,000 per occurrence, and MCSD will have no further obligation to defend or hold harmless City of Marathon in the event said limits are paid or are otherwise exhausted. Nothing contained herein shall be construed to alter or waive the MCSD's sovereign immunity under 768.28, Florida Statutes. City of Marathon acknowledges that indemnification by the MCSD may be unenforceable under Florida law, and that the MCSD does not waive any legal defense based on the unenforceability of such indemnification position.

- C. MCSD and City agree to notify the other party of any claims, administrative actions, or civil actions determined to be within the scope of this Agreement within ten (10) calendar days of such determination. MCSD and City further agree to cooperate in the defense of any such actions. Nothing in this MOU shall establish a standard of care for or create any legal right for any person not a party to this MOU.

TERMINATION/SUSPENSION:

This MOU may be terminated without cause by either party upon thirty (30) days prior written notice to the other party. When required by law, this MOU may be immediately suspended by either party upon notice to the other party; any such suspension shall not extend the term of this MOU.

NOTICES:

Any notice required to be given by the terms of this MOU shall be deemed to have been given when the same is personally delivered or sent by first class mail, postage prepaid, addressed to the respective parties as follows:

To MCSD:

Monroe County School District
Division of Career and Technical Education 241 Trumbo Road
Key West, FL 33040

To City Marathon Fire Department:

City of Marathon Fire Department
8900 Overseas Highway
Marathon, FL 33050

With a Copy to:

City of Marathon
Attention: City Manager

9805 Overseas Highway
Marathon, FL 33050

INTEGRATION

This MOU represents the entire and integrated agreement between MCSD and City, and supersedes all prior negotiations, representations, or agreements, either written or oral. This MOU may be amended only by written instrument signed by the duly authorized representatives of MCSD and City.

REPRESENTATION OF AUTHORITY

The undersigned hereby represent and warrant that they are authorized by the respective parties to execute this MOU.

IN WITNESS WHEREOF, MCSD and City have executed this MOU as of the date first above written.

Attest: Diane Clavier, Clerk

CITY OF MARATHON

By: _____

By: _____

City Clerk

Chuck Lindsey, City Manager

Witness

MONROE COUNTY SCHOOL BOARD

By: _____

By: _____

Printed Name

Printed Name

June 2019 - July 2019

June 2019							July 2019						
Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su
					1	2	1	2	3	4	5	6	7
3	4	5	6	7	8	9	8	9	10	11	12	13	14
10	11	12	13	14	15	16	15	16	17	18	19	20	21
17	18	19	20	21	22	23	22	23	24	25	26	27	28
24	25	26	27	28	29	30	29	30	31				

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
Jun 10	11 5:30pm City Council Meeting (City Hall Council Chambers, 9805 Overseas Hwy.)	12	13	14	15	16
17 5:30pm Planning Commission Meeting (City Hall Council Chambers, 9805 Overseas Hwy.) -	18	19 5:00pm Firefighter Pension Board Meeting (Marathon Fire Station, 8900 Overseas Hwy.)	20	21	22	23
24	25 5:30pm City Council Meeting (City Hall Council Chambers, 9805 Overseas Hwy.)	26	27	28	29	30
Jul 1	2	3	4 Independence Day-City Hall Closed	5	6	7
8	9 5:30pm City Council Meeting (City Hall Council Chambers, 9805 Overseas Hwy.)	10	11	12	13	14