

PLANNING COMMISSION AGENDA STATEMENT



Meeting Date: July 12, 2022
To: Honorable Mayor and Members of City Council
Through: George Garrett, City Manager
From: Brian Shea, Planning Director

AGENDA ITEM: **Resolution 2022-61**, Denying An Ordinance Of The City Of Marathon, Florida Amending The Future Land Use Map (FLUM) From Residential Low (RL) To Residential Medium (RM) For Property Described As Block 18 Lot 7 Coco Plum Beach PB4-166 Fat Deer Key, Monroe County, Florida, Having Real Estate Number 00365960-000000; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity; And Providing For An Effective Date Upon The Approval Of This Ordinance By The State Department Of Economic Opportunity.

-AND-

Resolution 2022-62, Denying An Ordinance Of The City Of Marathon Florida Amending The Zoning From Residential Low (RL) To Residential Medium (RM) For Property Described As Block 18 Lot 7 Coco Plum Beach PB4-166 Fat Deer Key, Monroe County, Florida, Having Real Estate Number 00365960-000000; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity; And Providing For An Effective Date Upon The Approval Of This Ordinance By The State Department Of Economic Opportunity.

APPLICANT: Van Fischer

LOCATION: The subject property is located on Avenue O and is legally described as Block 18 Lot 7 Coco Plum Beach PB4-166 Fat Deer Key, Monroe County, Florida, Having Real Estate Number 00365960-000000. Nearest Mile Marker 52

ADDRESS: 0 Avenue O, Coco Plum

REQUEST: Amend The Future Land Use Map (FLUM) From Residential Low (RL) To Residential Medium (RM)

- AND-

Amend the Zoning Map for the subject properties from Residential Low (RL) to Residential Medium-1 (RM-1)

LOT AREA: The aggregated size of the parcels is approximately 0.83 acres (36,154.80/ft.)

LOCATION MAP

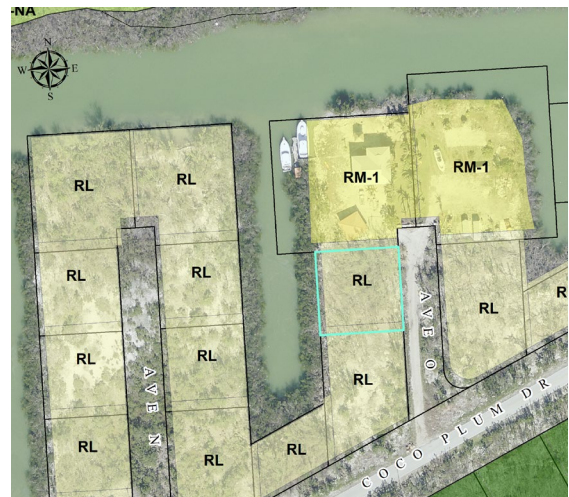


BACKGROUND:

This parcel was zoned Suburban Residential under Monroe County. In 2005, when the City of Marathon adopted the Comprehensive Plan, the parcels were given a Residential Low (RL) FLUM designation and were in turn zoned as Residential Low (RL) when the City adopted the current zoning maps in 2007. The Applicant is requesting the re-designation of the FLUM map to Residential Medium and subsequent rezoning to make the parcel Residential Medium (RM).

Pre 2005 OLD FLUM	Pre 2007 OLD ZONING	2005 CURRENT FLUM	2007 CURRENT ZONING
Residential Low	Suburban Residential	Residential Low	Residential Low

Existing FLUM and Zoning



Current and Proposed Future Land Uses and Zoning

Future Land Use Map Designation

Current: Residential Low (RL)
 Proposed: Residential Medium (RM)

Land Use (Zoning) District Designation

Existing: Residential Low (RL)
 Proposed: Residential Medium-1 (RM-1)

Use of Properties

Existing: Vacant
 Proposed: Single Family home

Surrounding FLUM, Zoning and Uses

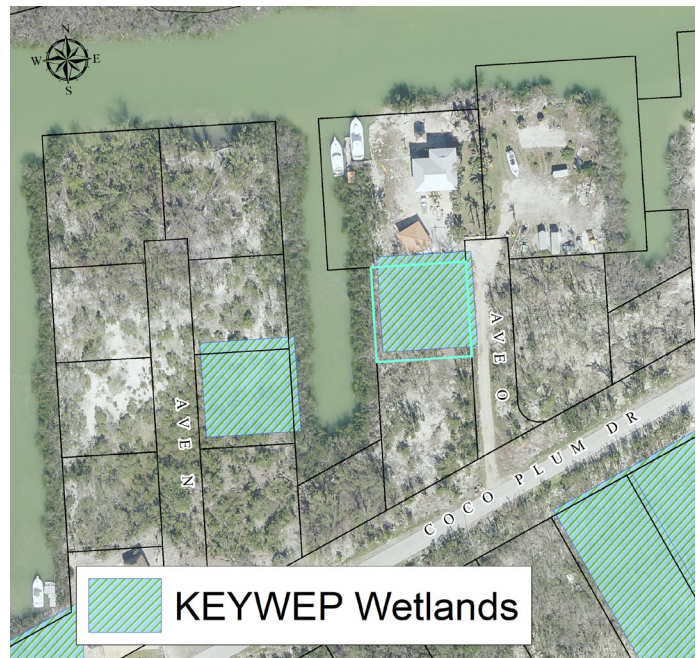
The property subject parcel is located on Ave O and consists of one parcel. The property is located in an area that is residential and conservation. Adjacent land use is single family residential and City and State conservation. Surrounding zoning is Residential Low to the South, Residential Medium-1 to the North, and Residential Low to the East. The following table correlates existing uses with the existing FLUM, zoning and uses.

	<u>Existing FLUM</u>	<u>Existing Zoning</u>	<u>Existing Uses</u>
North	Residential Medium	RM-1	Single family residential
East	Residential Low	Residential Low	State of FL conservation
South	Residential Low	Residential Low	City of Marathon conservation
West	Residential Low	Residential Low	Vacant wetlands

Existing Habitat

The property is listed as in the Species Focus Area for Eastern Indigo Snake. The parcel is within the Florida Forever boundaries, which is land that has been identified as critical areas suitable for acquisition by federal, state, or local agencies. The property is listed as wetlands by the Keys Wetland Evaluation Procedure analysis data. A wetland evaluation ranked it as a 4.55 on the KEYWEP scale.

FEMA



The property is within the AE 7 and AE 8 flood zones.

DEVELOPMENT ANALYSIS:

Current FLUM: Residential Low (RL)

Policy 1-3.1.4 Residential Low of the Comprehensive Plan states “the principal purpose of the Residential Low land use category is to provide for low- density residential development. The Residential Low future land use category is characterized by partially developed areas with substantial native vegetation with limited infrastructure. Low intensity public utilities and institutional uses are allowed.”

Residential Low Allowable Density

Market Rate – 0.5 per acre
Affordable – 0.5units per acre
Transient – 0 units per acre
Maximum Intensity (FAR) -0
Open space ratio – 50%

Proposed FLUM: Residential Medium

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

Industrial Allowable Density

Market Rate – 5 Units per acre
Affordable – 10 units per acre
Transient – 0
Maximum Intensity (FAR) - 0
Minimum Open Space Ratio 20%

ANALYSIS OF FLUM CHANGE REQUEST:

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

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

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

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

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

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

FL State Statutes

Relevant criteria promulgated in Chapters 163, 380, and 9J-5 F.A.C. can be itemized in bullets as follows based on the critical concerns more specifically identified in the City's comprehensive plan:

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

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

In General

There are two upland parcels adjacent to this parcel that had zoning and FLUM amendments. All other parcels in this area are designated Residential Low (RL) (FLUM) and zoned Residential Low (RL). The proposed Re-FLUM and re-Zoning converts the parcel to Residential Medium (RM) (FLUM) and Residential Medium-1 (RM-1) (Zoning). While the previous change did allow for a different zoning adjacent to this parcel, the incremental change of an area is not the intent. Nor are the lots characteristically similar.

The proposed FLUM and Zoning amendments *are not compatible* with the present zoning pattern and conforming uses of nearby property and the character of the surrounding area. Therefore, it is staff's finding that the request is *not in compliance* with this criterion.

Natural Resources

The area proposed for a FLUM change is listed as containing hammock habitat in the Species Focus Area for the Eastern Indigo Snake. The parcel is within the Florida Forever boundaries, which is land that has been identified as critical areas suitable for acquisition by federal, state, or local agencies. The property is listed as wetlands by the Keys Wetland Evaluation Procedure analysis data.

The proposed FLUM and Zoning amendments *are not consistent* with these provisions of the Comprehensive Plan and Chapters 163 and 380 F.S.

Historical and Cultural Resources

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

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

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

Infrastructure

• Wastewater infrastructure

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

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

- **Stormwater infrastructure**

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

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

- **Potable Water**

Monroe County's potable water facilities do not critically constrain the amount of future growth that can be accommodated in the County (see End Note 1). The current FKAA Consumptive Use Permit, when compared to current potable water consumption rates, will provide sufficient potable water to accommodate existing and committed development plus an additional 18,258 equivalent residential units (ERU's) in unincorporated and incorporated Monroe County. The FKAA's Consumptive Use Permit has been renewed (see End Note 1). Costs of improvements to upgrade facilities for potable water supply, treatment, and distribution, in order to accommodate future growth impacts, would not be borne by the City, as this utility is private and would be in the FKAA's CIP, not the City's.

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

- **Solid Waste**

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

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

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

- **Transportation**

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

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

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

Affordable Housing

Affordable housing is an important issue in the Florida Keys and throughout the state of Florida. The City has well over 200 developed or approved affordable housing units. The existing zoning requires 2 acres of uplands to build both an affordable and market rate unit. The proposed zoning would require only 10,000 square feet of upland to build both an affordable or market rate unit. This is roughly an 8 times increase in density.

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

Hazard Mitigation

• Coastal High Hazard Areas

The part of the parcel is within the Coastal High Hazard Area (CHHA). Any future development on site, if encroaching into this zone, would have to comply with all provisions of the local City of Marathon Floodplain Ordinance, in accordance with the standards as set to be a participating community in the National Flood Insurance Program (NFIP).

Policy 4- 1.17.6 Limit Redevelopment in CHHA

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

Policy 4-1.20.1 Discourage Development in the High Velocity Area

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

While development in the CHHA is to be discouraged in the Comprehensive Plan, it can be permitted by the Land Development Regulations in cases where it cannot be avoided; in these cases, development is

required to comply with local Floodplain Management Regulations related to Velocity zone construction. The City has recently revised its floodplain regulations to comply with all recent revisions to the construction standards typically applied in a VE (CHHA) zone.

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

• **Hurricane Evacuation**

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

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

The proposed FLUM and zoning changes would have a neutral impact on hurricane evacuation times with the BPAS system in place.

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

Ports – Marina Siting

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

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

Public Use – Access to Water

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

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

Land Acquisition

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

The proposed FLUM and Zoning change would have an impact on land acquisition efforts. The proposed FLUM and Zoning amendments *are therefore not consistent* with these provisions of the Comprehensive Plan and Chapters 16 and 380 F.S.

SUMMARY:

The Applicant requests a change in the FLUM and Zoning Map designations for the property located on Avenue O. Currently the property is zoned as Residential Low (RL) with FLUM designation of Residential Low (RL).

The applicant is requesting a change to Residential Medium (RM) for the FLUM map and Residential Medium-1 for the zoning map.

RECOMMENDATION:

Based on the above information, the Marathon Planning Department staff recommends that the Planning Commission recommend denial of the proposed FLUM and Zoning changes to Residential Medium (FLUM) and Residential Medium-1 (RM-1) (Zoning). Planning Commission voted to recommend denial (3-2) for both items.

Staff finds the proposed FLUM change and rezoning are not consistent with the standards and tenants of Chapter 163 and 380 F.S., and the City's Comprehensive Plan adopted under the requirements of these statutes and rules.

End Notes:

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

**CITY OF MARATHON, FLORIDA
RESOLUTION 2022-61**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, DENYING A REQUEST BY VAN FISCHER FOR AN ORDINANCE OF THE CITY OF MARATHON FLORIDA AMENDING THE ZONING FROM RESIDENTIAL LOW (RL) TO RESIDENTIAL MEDIUM 1(RM-1) FOR PROPERTY DESCRIBED AS BLOCK 18 LOT 7 COCO PLUM BEACH PB4-166 FAT DEER KEY, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00365960-000000; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Van Fischer (The “Applicant”) filed an Application on October 19th, 2021 for a for a Rezoning pursuant to Chapter 102, Article 11 of the LDRs; and

WHEREAS; the Application was deemed complete on March 11, 2022; and

WHEREAS; the Applicant proposed to amend the zoning from Residential Low to Residential Medium-1; and

WHEREAS, City staff reviewed the Applicant’s request for an amendment to the FLUM determining that the Applicant’s proposal was not in compliance with the City’s Comprehensive Plan and Land Development Regulations (LDRs); and

WHEREAS, on the 16th day of May, 2022, the City of Marathon Planning Commission (the “Commission”) conducted a properly advertised public hearing (the “Public Hearings”) regarding the request submitted by the Applicant, for a Rezoning pursuant to Chapter 102, Article 11 of the LDRs; and

WHEREAS, and on the 14th day of June, 2022 the City Council (the “Council”) conducted properly advertised public hearings (the “Public Hearings”) regarding the request submitted by the Applicant, for a Rezoning pursuant to Chapter 102, Article 11 of the LDRs; and

WHEREAS, and on the 12th day of July, 2022 the City Council (the “Council”) conducted properly advertised public hearings (the “Public Hearings”) regarding the request submitted by the Applicant, for a Rezoning pursuant to Chapter 102, Article 11 of the LDRs; and

WHEREAS; the City Council made a determination that the Applicant’s request for an amendment to the FLUM was not in Compliance with the City’s Comprehensive Plan and LDRs and further determined that, approval was not in the public interest and would not 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 request for the amendment to the zoning from residential low to residential medium 1 is hereby denied.

Section 3. The City Clerk shall forward a certified copy of this Resolution to the Applicant.

Section 4. This resolution shall take effect immediately upon its adoption by the City of Marathon.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 12TH DAY OF JULY, 2022.

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:

Steven Williams, City Attorney