

FUTURE LAND USE ELEMENT GOALS, OBJECTIVES, AND POLICIES

PURPOSE

Pursuant to Chapter 163.3177(1) F.S., the purpose of the Future Land Use Element is to evaluate existing development patterns and potential opportunities and constraints for new development and redevelopment and to establish the standards and criteria to determine how future development may occur within the City of Marathon (the “City”) over the planning horizon of this Comprehensive Plan (the “Plan”). The Future Land Use Element shall direct where this development will be located and how the goals of this Plan will be achieved. The following principles will guide future development in the City of Marathon, “Heart of the Florida Keys”:

Future growth should be managed to enhance the quality of life for and to ensure the safety of the City’s residents and visitors.

The City should provide adequate public facilities and services to support existing and future development.

Future growth should be directed to lands which are inherently most suitable for development and promote conservation, preservation, and protection of environmentally sensitive lands.

GOAL 1-1 MANAGE GROWTH

The City shall manage growth to enhance the quality of life for residents and visitors of the City, to maintain and enhance the unique small town character of the community and to promote development and redevelopment which strengthens Marathon’s unique role as the city in the “Heart of the Florida Keys”. §163.3177(1) F.S.

Objective 1-1.1 Protect Community Character

The City shall accommodate new growth and redevelopment in a manner which protects and enhances existing land use, patterns of employment, housing, and commerce that define the City’s community character. This will be accomplished in part by discouraging uses inconsistent with Marathon’s unique “Keys” character and future land uses. §163.3177(1) F.S.

Policy 1-1.1.1 Enhance and Preserve Existing Community Character

In order to enhance and preserve the existing community character, the City shall continue to maintain Land Development Regulations to reflect the following desired development patterns that:

- a. Protect and enhance the “small town” atmosphere;
- b. Encourage mixed-use development patterns;

- c. Protect, enhance, and acknowledge the commercial fishing industry and its historical contributions to the City;
- d. Protect and enhance the “Keys” character; and
- e. Protect, enhance, and increase the number of affordable housing units.

Policy 1-1.1.2 Adopt Compatibility for Residential and Non-Residential Review Criteria

The City shall continue to maintain Land Development Regulations to preserve and enhance the City’s unique “Keys” character. The Land Development Regulations, at a minimum, shall address:

- a. sign control;
- b. specimen tree protection;
- c. native landscaping;
- d. architectural design review criteria; and
- e. bulk regulations

Policy 1-1.1.3 Protect Residential Neighborhood Character

The City shall protect viable and stable residential neighborhoods from uses inconsistent with their established character and use. The City’s Land Development Regulations shall include standards which protect such neighborhoods through the use of landscaping and buffering requirements, building height and bulk restrictions, and standards requiring setbacks and separation between uses.

Policy 1-1.1.4 Transition between Land Uses

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.

Policy 1-1.1.5 Home Occupations

The City shall continue to maintain Land Development Regulations which allow home-based businesses that do not detract from the residential quality of the neighborhood. These regulations shall incorporate criteria for determining compatible home occupation uses and standards to ensure there are no negative impacts on adjoining properties.

Objective 1-1.2 Enhance the US 1 Corridor

The City recognizes that the US 1 corridor is a vital part of the City and its enhancement and improved functionality is an integral component to the redevelopment and revitalization of the City. §163.3177(6)(a)3 & 9. and §163.3177(6)(b)1. F.S.

Policy 1-1.2.1 Fair Share Funding of Improvements

The City may require new development and redevelopment to fund a proportionate share of the improvements set forth in Policy 1-1.2.2.

Policy 1-1.2.2 Enhance U.S. 1 Corridor

The City shall promote land use and transportation plans and policies designed to improve the appearance and function of the U.S. 1 corridor. These plans and policies shall include, but not limited to:

- a. Installation and maintenance of landscaping
- b. Installation and maintenance of medians, including additional left hand turn lanes
- c. Installation and maintenance of traffic signals and signage
- d. Installation and maintenance of stormwater
- e. Pedestrian and bike paths and lanes

These improvements, in addition to improving the appearance and functionality of the US 1 Corridor, may also be designed to provide traffic calming measures and increase pedestrian activity where appropriate.

GOAL 1-2 ADEQUATE PUBLIC FACILITIES AND SERVICES

The City shall manage future growth to enhance the quality of life, ensure the safety of the City's residents and visitors, and protect valuable natural resources through the provision of adequate public facilities and services. §163.3177(6)(a) and §163.3178(2)(d) F.S.

Objective 1-2.1 Ensure Levels of Service

The City shall to ensure the availability of public facilities and services, including assurances that land is available for the needed facilities and that at the time a development permit is issued, adequate public facilities are available to serve the development at the adopted level of service standards concurrent with the impacts of such development. §163.3177(6)(a)3.e

Policy 1-2.1.1 Implement Levels of Service

The City shall implement level of service (LOS) standards for the following public facility types: roads, potable water, wastewater, solid waste, drainage, and parks and recreation. The City shall require new development and redevelopment to fund a proportionate share of the improvements.

Policy 1-2.1.2 Ensure Availability of Public Facilities and Service

The City shall not issue a development order or permit for any development unless the applicant provides narrative and graphic information demonstrating to the satisfaction of the City that the

public facilities required by the subject development shall be in place concurrent with the impacts of development. Furthermore, the applicant shall assure that the facilities operate at or above adopted level of service (LOS) standards. The applicant's narrative and graphic information shall also demonstrate that the subject development shall not reduce the levels of service for public facilities serving the development below adopted LOS standards.

Policy 1-2.1.3 Ensure Adequate Easements and Rights-of-Ways

The City shall continue to maintain and require the dedication of adequate easements and rights-of-way for uses such as, but not limited to, roadways, wastewater lines, and stormwater management, for use by utility companies for new construction, service extensions, or facility improvements.

Policy 1-2.1.4 Future Schools

All future public or private, primary or secondary schools are allowed in all land use categories except the Conservation, Recreation and Industrial land use categories (§163.3177(6)(a)7.F.S.). The City shall enter into an interlocal agreement with the Monroe County School Board that shall provide for:

- a. Future schools to be sited as closely to residential areas as practical, preferably within walking and bicycle distance of the primary residential areas to be served;
- b. The co-location of City public facilities, such as parks, libraries, and community centers, with schools to the extent possible; and
- c. The use of elementary schools as focal points for neighborhoods; and
- d. An annual meeting with school board representatives to review school facility planning, development needs, student population projections, co-location and joint use opportunities, and ancillary infrastructure improvements needed to support the school, review and evaluate potential school site locations.

Objective 1-2.2 Hurricane Evacuation

The City shall maintain an up-to-date hurricane evacuation plan and meet the required 24 hour hurricane evacuation time or other applicable state standard for hurricane evacuation. §163.3178(2)(d)

Policy 1-2.2.1 Implement Staged/Phased Hurricane Evacuation for Major Hurricanes (Category 3 – 5)

In order to provide for safe and efficient evacuation of the residents in the event of a major hurricane (category 3 – 5), the City shall implement, in coordination with Monroe County, the following staged/phased evacuation procedures to achieve and maintain an overall 24-hour hurricane evacuation clearance time for the resident population.

- a. Approximately 48 hours in advance of tropical storm winds, a mandatory evacuation of non-residents, visitors, recreational vehicles (RVs), live-boards (transient and non-transient), and military personnel from the Keys shall be initiated. State parks and campgrounds should be closed at this time and entry into the Florida Keys by non-residents should be strictly limited.

- b. Approximately 36 hours in advance of tropical storm winds, a mandatory evacuation of mobile home residents, special needs residents, and hospital and nursing home patients from the Keys shall be initiated.
- c. Approximately 30 hours in advance of tropical storms winds, a mandatory phased evacuation of permanent residents, by evacuation zone shall be initiated.

The actual sequence of the evacuation by zones will vary depending on the individual storm. The concepts embodied in this staged evacuation procedures should be embodied in the appropriate county operational emergency management plans.

Policy 1-2.2.2 Coordinate Evacuation Plans

The City shall coordinate plans for evacuation of coastal area populations with appropriate local or regional hurricane evacuation plans.

Policy 1-2.2.3 Reduce Potential Loss of Life and Property Damage

The risk of loss of human life and damage to public and private property from natural disasters shall be reduced through hurricane preparedness, planning and implementation of hazard mitigation measures.

Policy 1-2.2.4 Hurricane Modeling.

For hurricane evacuation clearance time modeling purposes, clearance time shall begin when the Monroe County Emergency Management Coordinator issues the evacuation order for the permanent population for a hurricane that is classified as a Category 3-5 wind event or Category C-E surge event. The termination point shall be the intersection of U.S. Highway One and the Florida Turnpike in Homestead/Florida City.

GOAL 1-3 MANAGE GROWTH

The City, through the implementation of this Plan and the adoption of Land Development Regulations, shall manage public and private development and redevelopment. §163.3177(6)(a) F.S.

Objective 1-3.1 Managing Future Development and Redevelopment through Future Land Use Designations

The City shall manage and maintain the character of existing development and land uses and achieve new development and land uses, which are consistent with the community character and achieve redevelopment that is more consistent with the community character than the development which it replaces. Additionally, the City shall maintain and protect its natural

resources by providing for the compatible distribution of land uses consistent with the designations shown on the Future Land Use Map. §163.3177(6)(a)3. and §163.3177(6)(a)9 F.S.

Policy 1-3.1.1 Recognize Platted Lots

The City shall recognize all lots that have been subdivided without having had prior subdivision or plat approval as set forth in state law. These lots shall be recognized as legal lot(s) of record as long as the resulting lot(s) is a buildable lot. The recognition of these lots as legal lot(s) of record does not confer any development rights to the lot(s). The development of such lots shall comply with the provisions of this Plan and the Land Development Regulations.

Policy 1-3.1.2 Plat Review and Lots Containing Duplex Dwelling Units

Upon the effective date of this Plan, the subdivision of land into three or more lots, parcels, tracts or other division of land shall be subdivided in accordance with Chapter 177, Florida Statutes. Any lot of record containing a duplex structure may be subdivided into two separate lots, as long as there is recorded in the Public Records of Monroe County an agreement requiring the joint maintenance of the duplex structure by the individual lot owners. The recognition of these lots as legal lot(s) of record does not confer any development rights to the lot(s). The development of such lots shall comply with the provisions of this Plan and the Land Development Regulations. The application of the height and lot coverage limitations shall not preclude the repair or reconstruction of the duplex which has been damaged by any natural disaster or other casualty.

Policy 1-3.1.3 Simplified (Minor) Plat Review

The City shall continue to maintain Land Development Regulations establishing a simplified (Minor) Plat review of proposed subdivisions to ensure the resulting lots meet all of the requirements of this Plan and the Land Development Regulations and do not result in unbuildable lots. The recognition of these lots as legal lot(s) of record does not confer any development rights to the lot(s). The development of such lots shall comply with the provisions of this Plan and the Land Development Regulations.

Policy 1-3.1.4 Future Land Use Categories

Pursuant to Chapter §163.3177(6)(a) F.S., the following future land use categories, depicted on the *Future Land Use Map*, describe the type and extent of land use permitted in specified locations in the City. The Land Development Regulations shall contain more detail about permitted land uses within the Future Land Use categories.

Residential Low

The principal purpose of the Residential Low future 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 also allowed. The minimum lot size/density/intensity identified in Table 1-1 shall not preclude the continued use or redevelopment of existing commercial, if applicable, or residential uses on a smaller lot where such lot or parcel was platted or otherwise of record prior to the adoption of this Plan. Additionally, the application of the height and lot coverage limitations contained in the Plan and the Land Development Regulations shall not preclude the repair or reconstruction of any

structure or portion thereof which is damaged by any natural disaster or other casualty as provided for in Objective 1-3.4 and Policies therein.

Residential Medium

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 predominately compact development on lots with disturbed or scarified vegetation and areas that are appropriate for infill development and that are served by existing infrastructure. The minimum lot size/density/intensity identified in Table 1-1 shall not preclude the continued use or redevelopment of existing commercial, if applicable, or residential uses on a smaller lot where such lot or parcel was platted or otherwise of record prior to the adoption of this Plan. Additionally, the application of the height and lot coverage limitations contained in the Plan and the Land Development Regulations shall not preclude the repair or reconstruction of any structure or portion thereof which is damaged by any natural disaster or other casualty as provided for in Objective 1-3.4 and Policies therein.

Residential High

The principal purpose of the Residential High future land use category is to provide for high-density single-family, multi-family, and institutional residential development. The Residential High future land use category is characterized by high density compact development on lots with disturbed or scarified vegetation and areas that are appropriate for infill development and that are served by existing infrastructure. Lawfully established RV parks where a majority of the recreational vehicles have been converted into permanent structures are also allowed within the residential high land use category (See Objective 1-3.3 and 1-3.4 and the Policies therein.) The minimum lot size/density/intensity identified in Table 1-1 shall not preclude the continued use or redevelopment of existing commercial, if applicable, or residential uses on a smaller lot where such lot or parcel was platted or otherwise of record prior to the adoption of this Plan. Additionally, the application of the height and lot coverage limitations contained in the Plan and the Land Development Regulations shall not preclude the repair or reconstruction of any structure or portion thereof which is damaged by any natural disaster or other casualty as provided for in Objective 1-3.4 and Policies therein.

Mixed Use Commercial

The principal purpose of the Mixed Use Commercial future land use category is to provide for the establishment of mixed use development patterns and to recognize established mixed use development patterns within the City. This land use category is intended to provide for the commercial zoning districts where various types of commercial, retail, and office uses may be permitted at intensities which are consistent with the community character and the natural environment and to provide for various types of residential uses, including employee housing and commercial apartments. Whenever and wherever possible, the maintenance and enhancement of commercial fishing and related traditional uses such as retail, storage, and repair and maintenance which support the commercial fishing industry shall be encouraged within this land use category. Heavy industrial uses and similarly incompatible uses shall be prohibited. Lawfully established RV parks where the majority of the RVs spaces are maintained and rented as transient spaces are also allowed within the Mixed Use Commercial future land use category.

The minimum lot size/density/intensity identified in Table 1-1 shall not preclude the continued use or redevelopment of existing commercial or residential uses on a smaller lot where such lot or parcel was platted or otherwise of record prior to the adoption of this Plan. Additionally, the application of the height and lot coverage limitations contained in the Plan and the Land Development Regulations shall not preclude the repair or reconstruction of any structure or portion thereof which is damaged by any natural disaster or other casualty as provided for in Objective 1-3.4 and Policies therein. §163.3177(6)(a)3.h F.S.

Industrial

The principal purpose of the Industrial future land use category is to provide for the development of light industrial, manufacturing, marine industrial, warehouse and distribution uses. Public and commercial fishing-related uses are also allowed. New affordable and/or workforce housing residential uses accessory to the primary use are permitted; and existing units may be replaced under the provisions within the Plan. The minimum lot size/density/intensity identified in Table 1-1 shall not preclude the continued use or redevelopment of existing commercial, if applicable, or residential uses on a smaller lot where such lot or parcel was platted or otherwise of record prior to the adoption of this Plan. Additionally, the application of the height and lot coverage limitations contained in the Plan and the Land Development Regulations shall not preclude the repair or reconstruction of any structure or portion thereof which is damaged by any natural disaster or other casualty as provided for in Objective 1-3.4 and Policies therein.

Recreation

The principal purpose of the Recreation future land use category is to provide for public and private, activity-based and resource-based parks and recreational facilities. Residential caretaker uses are also permitted. The minimum lot size/density/intensity identified in Table 1-1 shall not preclude the continued use or redevelopment of existing commercial, if applicable, or residential uses on a smaller lot where such lot or parcel was platted or otherwise of record prior to the adoption of this Plan. Additionally, the application of the height and lot coverage limitations contained in the Plan and the Land Development Regulations shall not preclude the repair or reconstruction of any structure or portion thereof which is damaged by any natural disaster or other casualty as provided for in Objective 1-3.4 and Policies therein.

Public Uses

The Public Uses future land use category includes all government-owned property, educational and institutional facilities, and land owned by public utilities and service providers. In general, municipal facilities and public utilities may be located in any land use category. Affordable and/or workforce housing uses are permitted. The minimum lot size/density/intensity identified in Table 1-1 shall not preclude the continued use or redevelopment of existing commercial or residential uses on a smaller lot where such lot or parcel was platted or otherwise of record prior to the adoption of this Plan. Additionally, the application of the height and lot coverage limitations contained in the Plan and the Land Development Regulations shall not preclude the repair or reconstruction of any structure or portion thereof which is damaged by any natural disaster or other casualty as provided for in Objective 1-3.4 and Policies therein.

Conservation

The principal purpose of the Conservation future land use category is to provide for the preservation of natural and historic resources and passive resource-based recreational uses. These areas require protection from development or require strict regulation of the density and intensity of development. Very low-density residential development and low intensity public uses and utilities may be permitted. The maximum density shall be determined by the results of a Habitat Analysis as provided for in the Land Development Regulations. The minimum lot size/density/intensity identified in Table 1-1 shall not preclude the continued use or redevelopment of existing commercial, if applicable, or residential uses on a smaller lot where such lot or parcel was platted or otherwise of record prior to the adoption of this Plan. Additionally, the application of the height and lot coverage limitations contained in the Plan and the Land Development Regulations shall not preclude the repair or reconstruction of structure or portion thereof which is damaged by any natural disaster or other casualty as provided for in Objective 1-3.4 and Policies therein. All non-submerged lands within the Conservation future land use category are eligible sender sites for the Transfer of Density Rights. §163.3177(6)(a)3.f. F.S.

Airport

The principal purpose of the Airport District future land use category is to provide for the landing and take-off of aircraft, both public and private, and to provide for their storage and maintenance and the appurtenant area which is used for airport buildings or other airport facilities, rights-of-way, or other appropriate public uses. Residential uses are not permitted. §163.3177(6)(a)3.b F.S.

Objective 1-3.2 Regulate Density and Intensity

The City shall direct and regulate density and intensity to maintain the character of the community, protect the natural resources and provide for the compatible distribution of land uses. §163.3177(6)(a)3, 4 and 9. F.S.

Policy 1-3.2.1 Allocated Density Defined

Allocated densities for the Future Land Use districts, as shown in Table 1-1, are the number of residential units allocated per gross acre of land pursuant to the Plan.

Policy 1-3.2.2 Floor Area Ratio Defined

Floor Area Ratio (FAR) shall be defined as the total square feet of gross floor area on a lot, parcel or building site or aggregated development of contiguous parcels under common ownership or having shared facilities, divided by the total square feet of land area comprising the lots, parcel or building site. FAR computations shall include all enclosed uses on the lot, parcel or site. Parking structures shall not count as part of the floor area, but shall be counted when computing height, setbacks, impervious surfaces and open space.

Policy 1-3.2.3 Areas Ineligible for Density or FAR Calculations

Allocated density (residential units per acre) shall be assigned to high quality disturbed and undisturbed wetlands only for use as transferable density rights (TDR's) away from these

habitats. High quality disturbed and undisturbed wetlands shall be assigned a density of .25 residential units per acre as a sender site as defined in Policy 1-3.5.15. Submerged lands, salt ponds and mangrove forests shall not be assigned density for the purposes of calculating development right transfers. FAR credit shall be granted for high quality disturbed and undisturbed wetlands or for submerged lands, salt ponds and mangrove only for the use as TDR's. §163.3177(6)(a)3.f. F.S.

Policy 1-3.2.4 Density Increase Provisions

Special provisions and criteria have been established in the Land Development Regulations to provide incentives to increase the supply of affordable housing by allowing for high density for affordable units. This high density shall only be available for Residential Medium, Residential High and Mixed Use Commercial categories. The transfer of development rights (TDR's) is not required for affordable units under these provisions. Assigned density under these provisions cannot exceed a maximum of 25 units per acre, as provided for in Table 1-1 and this density can only be applied to the following environmental habitats:

- Disturbed with Hammock
- Disturbed
- Disturbed with exotics
- Scarified

Property owners may seek a FLUM change to a FLUM category which would allow a greater residential density. However, there shall be no presumption in any request that the request must be or will be granted by the City. If the FLUM change is granted, then the difference in residential density between the two FLUM categories shall be achieved through a transfer of TDRs which shall not exceed the density allowed in Table 1-1 for the new FLUM category. The Transfer of Development Rights shall be accomplished in accordance with the provision of Policy 1-3.5.16.

Policy 1-3.2.5 Maximum Height Limitation

The maximum height of a structure shall be thirty-seven (37) feet with the exception of permitted projections, unless further restricted by the Land Development Regulations. Government Facilities are exempt with the approval of the City Council.

Policy 1-3.2.6 Manage Development of New Transient Units

Transient uses shall be defined as any use of any structure for a tenancy of 28 days or less. The number of new transient units is defined as the number of current and vested hotel and motel rooms, campground, and recreational vehicles spaces (non-permanent) existing within the City, and any additional transient units approved by the Governor and Cabinet – sitting as the Administration Commission – such as but limited to the 100 transient units so approved on January 18, 2012, and up to an additional 100 transient units which the City may allocate at its discretion from the Administrative Relief and/or Residential BPAS pools. Prior to the allocation of any such transient units the City shall adopt Land Development Regulations that establishes an allocation process that:

- a. Provides a Building Permit Allocation System (BPAS) ranking system; and
- b. Provides disincentives for development in environmentally sensitive lands; and
- c. Provides disincentives for development in offshore islands, COBRA, Coastal High Hazard Areas, and High Velocity Zones; and
- d. Provides incentives for in-fill development; and
- e. Maintains an up-to-date hurricane evacuation plan and meet the required 24 hour hurricane evacuation time or other applicable state standard for hurricane evacuation;
- f. Provides incentives for mixed-income (affordable and employee housing within one development) developments; and
- g. Provides means of replacement & accounting mechanism if TRUs are borrowed forward.

Policy 1-3.2.7 Restrict Density and Intensity of Development

Table 1-1 establishes the maximum range of allocated density and intensity (F.A.R.) permitted in each future land use category per acre. New development and redevelopment, unless otherwise specified, shall not exceed the thresholds established in the table below.

With the exception of mixed use development that contains affordable/work force housing, when a proposed development is for a combination of uses, the acreage required for each use shall be determined independently based on the floor area ratio in Table 1-1 for each individual use.

Policy 1-3.2.8 Permanent RVs

Permanent RVs are recreational vehicles that, as of the effective date of the Plan, meet all of the following criteria:

- a. have been tied down or otherwise affixed to the property on which they are located, and
- b. have permanent attachments such as carports, porches, screened rooms, or similar improvements, and
- c. are continuously occupied for more than six months and are being used as a permanent dwelling unit,
- d. are no longer capable of traveling on the public roadways of the state, and
- e. no new additions shall be added to a permanent RV.

At such time as the City establishes a Transfer of Building Rights (TBR) process, the building right for a permanent RV may be transferred to an approved site by the owner of the property on which the TBR is located and the TBR shall be considered and deed restricted as an affordable dwelling unit.

**TABLE 1-1
Future Land Use Densities and Intensities***

Future Land Use Category	Permitted Residential Density (Units per acre)			Hotel/Motel/RV Spaces (Units per acre)	Maximum Intensity (floor area ratio)	Minimum Open Space Ratio
	Market Rate	Affordable	Licensed Mobile Home or RV Parks			
Airport (AD)	0		0	N/A	0.15 - 0.50	0.2
Conservation (C)	0.1- 0.25	0.1-0.25	0	N/A	0.05 - 0.10	0.5
Industrial (I)	0	5-10	0	N/A	0.85	0.2
Mixed Use Commercial (MUC)	2 – 6	10 – 15	10-25	5 - 25	0.15 - 0.60 ⁴	0.2
Public Uses (PU)	0	15-25	0	3 – 25	0.15 - 0.75	0.2
Recreation (R)	0.25	0.25	0	5 – 15	0.15 - 0.50	0.2
Residential High (RH)	8	15 - 25	15-25	0	0	0.2
Residential Medium (RM)	5	10	0	0	0	0.2
Residential Low (RL)	0.5	0.5	0	0	0	0.5

Note:

1. See Objective 1-3.9 and subsequent policies.
2. The allocated and maximum net densities for submerged lands shall be 0.
3. For properties consisting of hammocks or disturbed wetlands within the Mixed Use Commercial future land use categories, the floor area ratio shall be 0.10 and the maximum net residential density shall be 0.
4. Open space shall be increased based upon the requirement for a habitat evaluation and shall conform to Table 4-1 of the Coastal and Conservation Element.
5. The FAR in Mixed Use developments may be increased to .75 if mitigated by the development of affordable/workforce housing is provided.
6. Residential Densities found in this Table are subject to the provisions of Policy 1-3.5.16

*All development and redevelopment shall comply with this Plan and the Land Development regulations.

Objective 1-3.3 Encourage Redevelopment

The City shall evaluate potential redevelopment areas and prepare redevelopment plans or Land Development Regulations for areas determined to be in need of redevelopment. §163.3177(6)(a)3, 4 and 9 and §163.330 F.S.

Policy 1-3.3.1 General Redevelopment Criteria

The City shall investigate commonly used planning strategies and identify available funding sources to address the revitalization of areas in need of redevelopment. The City shall strive to utilize the most appropriate and creative mechanisms available to address such issues. Additionally, the City shall analyze existing development patterns, property values, structural conditions, renter/owner ratios, commercial vacancy rates, and other indicators of economic vitality and physical living conditions as part of the preparation of redevelopment plans or Land Development Regulations. Such redevelopment plans or Land Development Regulations shall:

- a. Prevent negative impacts on the fragile coastal ecosystem by directing development away from environmentally sensitive lands and critical habitat;
- b. Revitalize existing commercial areas;
- c. Promote safe and efficient vehicular, bicycle, and pedestrian movement;
- d. Prevent or minimize the City's cost to provide infrastructure;
- e. Mitigate incompatible commercial activity where commercial activity is adjacent to established residential neighborhoods;
- f. Enhance the unique character of the City's commercial land uses through incentives for bufferyards and landscaping; and
- g. Facilitate within the City, the creation of aesthetically pleasing commercial spaces outdoors, as places for social leisure and interaction, while limiting light industrial uses, outdoor storage and sales as a primary use of land, and outdoor retail sales as an accessory use of land; and
- h. Provide for affordable/workforce housing.

Policy 1-3.3.2 Removal of Hazard Structures

The City shall ensure that its code compliance process identifies and requires removal or rehabilitation of structures that are a hazard to the public health, safety and welfare.

Policy 1-3.3.3 Encourage Redevelopment of Aging Mobile Homes and Permanent RVs

The City shall continue to maintain Land Development Regulations that provide incentives and encourage the redevelopment of lawfully established mobile home and permanent RV parks. However, the City recognizes that existing mobile homes and permanent RVs in lawfully established mobile home and RV parks provide a critical source of affordable/workforce housing in the City. Accordingly, the redevelopment of lawfully established mobile home and RV parks shall incorporate development techniques which integrate the maintenance and promotion of affordable/workforce housing as part of the redevelopment project.

Policy 1-3.3.4 Encourage Redevelopment of Tourist/Resort/Campground Facilities

The City shall continue to maintain Land Development Regulations that provide incentives and encourage the redevelopment of existing resort and tourist facilities in the City. These Regulations shall include, but not be limited to:

- a. Mandatory hurricane evacuation
- b. Provision of on-site/off-site employee housing
- c. Transportation
- d. Services/Amenities
- e. Protection of habitat
- f. Establish a motel/hotel/campground equivalency ratio
- g. Ensure compliance with 2010 wastewater standards
- h. Ensure that transient units remain transient through various mechanisms such as:
 1. Use of Development Agreements
 2. Deed restrictions prohibiting the use of Homestead Exemptions;
 3. Provision of a lobby/front desk; or
 4. Limiting the tenancy of each unit.

Objective 1-3.4 Protect Established Uses, Densities, and Intensities

The City shall recognize and protect lawfully established uses, lawfully established transient, non-transient, and permanent RV residential densities and intensities within the City and shall encourage the rehabilitation and maintenance of all residential and non-residential structures within the community. §163.3177(6)(a)9. F.S.

Policy 1-3.4.1 Protect Established Residential Densities

Notwithstanding Table 1-1, herein all lawfully established transient, non-transient, or permanent RV residential dwelling units in existence in 1996 shall be entitled to a density of one dwelling unit as follows: a transient dwelling unit, such as a campground space, recreational vehicle space or a motel/hotel unit, shall only be entitled to redevelop as a transient dwelling unit and a non-transient dwelling unit or permanent RV shall be entitled to redevelop as a non-transient dwelling unit. If any such residential dwelling unit is a legal nonconformity as a condition of redevelopment the developer/property owner shall:

- a. bring their property into compliance with the Plan and Land Development Regulations; or
- b. if it is physically impossible to bring the site into compliance with the Plan and Land Development Regulations due to the size of the site and physical layout of the structure, the site shall be brought into compliance to the maximum extent practical but at a minimum the site shall meet a fifteen percent open space ratio, and all applicable FEMA/floodplain, wastewater, and stormwater requirements, however the size of the structure shall not be increased unless it complies with all of the provision of this Plan and the Land Development Regulations.

The reestablishment of any such transient, non-transient, or permanent RV dwelling unit shall not adversely impact the existing inventory of affordable/workforce housing in the City, by decreasing the number of affordable housing units within the City. Any new parks must comply with density standards established in Table 1-1.

Policy 1-3.4.2 Protect Established Non-Residential Intensities

Notwithstanding Table 1-1 herein all lawfully established non-residential intensities in existence on or before 1996 shall be entitled to existing intensities. If any such non-residential intensity is a legal nonconformity as a condition of redevelopment the developer/property owner shall:

- a. bring their property into compliance with the Plan and LDRs; or
- b. if it is physically impossible to bring the site into compliance with the Plan and Land Development Regulations due to the size of the site and physical layout of the structure, the site shall be brought into compliance to the maximum extent practical but at a minimum the site shall meet a fifteen percent open space ratio, and all applicable FEMA/floodplain, wastewater, and stormwater requirements, however the size of the structure shall not be increased unless it complies with all of the provision of this Plan and the Land Development Regulations.

Policy 1-3.4.3 Replacement of Existing Densities and Intensities

The City shall continue to maintain Land Development Regulations that provide criteria for recognizing residential and non-residential development that can be replaced without an allocation.

The criteria shall require at a minimum:

- a. Documentation of a permit or other local government action; or
- b. The structure exists or existed in 1996 on aerials, surveys, and property appraiser records;
- c. The structure could have been permitted under the applicable zoning district regulations in effect at the time the structure was constructed;
- d. Documentation of utility bills that demonstrates the use and occupancy of the structure for six months or more;
- e. Rental, occupancy, or lease agreements.

Policy 1-3.4.4 Protect Established Floating Structures

All floating structures anchored, moored, or otherwise located within the City on or before May 7, 2004 may remain as a legal nonconforming use in the City subject to the following conditions and criteria:

- a. The City shall maintain an inventory of the number and locations of floating structures in existence within the City on or before March 9, 2004.
- b. Owners of all such floating structures shall register with the City. Any floating structure identified in the City's inventory of floating structures that does not register within this time frame shall not be deemed to be a legal nonconforming

use and shall be required to leave the City. As part of the registration process the city shall inspect the floating structure for compliance with the criteria contained in this policy.

- c. The owner of the floating structure shall execute and record in the public records of Monroe County a hold harmless agreement indemnifying the City from all claims or causes of action arising from the presence of the floating structure within the City.
- d. No density or intensity shall be allocated to any floating structure.
- e. No registered floating structure shall be entitled to transfer any density, intensity or building rights to any upland property.
- f. All registered floating structures shall be moored, anchored or otherwise located immediately adjacent to its registered location. Within thirty days of the sale, transfer, or conveyance of a registered floating structure, the owner shall update the registration information on file with the City. Failure to do so will result in the loss of its status as a legal nonconformity and shall result in its immediate removal from the City.
- g. Within one year of the registration deadline, all floating structures shall have an approved sewage receiving tank and ejection device. The onboard sewage device shall be connected to an approved moorage sewage collection system.
- h. Prior to such time as being connected to an approved moorage sewage collection system, all floating structures shall contract with an approved pump-out contractor for appropriate sewage disposal.
- i. The destruction or damage of the floating structure equal to 50 percent or more of the pre-destruction appraised value of the structure shall result in the loss of its status as a legal nonconformity and shall result in its immediate removal from the City.
- j. Floating structures shall not be required to be brought into compliance with the state minimum building code, provided:¹
 - 1. The building or structure is structurally sound and in occupiable condition for its intended use;
 - 2. The occupancy use classification for the structure is not changed as a result of the move;
 - 3. The structure is not substantially remodeled;
 - 4. Electrical, gas, and plumbing systems meet the codes in force at the time of construction and are operational and safe for reconnection. Any repairs or remodeling of the registered floating structure, however, shall comply with the state minimum building code as adopted by the City.
- k. If the use of a floating structure is abandoned or derelict for a period of ninety days the floating structure shall lose its status as a legal nonconformity and shall result in its immediate removal from the City.

Policy 1-3.4.5 Protect Established Live-aboard Vessels

All live-aboard vessels docked, moored, anchored, or otherwise located within the City may remain in the City subject to the Policies in the Comprehensive Plan, including:

¹ Source for items 1-4, Florida Building Code

- a. Live-aboard inventory per Policy 4-1.12.4;
- b. The Marina Operating Permit process per Policy 4-1.12.3;
- c. Zoning District Regulations per Policy 1-3.4.6; and,
- d. Pump-out criteria per Policy 4.1.12.5.

Policy 1-3.4.6 Live-aboards not Permitted in Residential Zoning Districts

Live-aboard vessels of any type are prohibited in residential zoning districts.

Policy 1-3.4.7 Structures Non-Conforming to the Required Base Flood Elevation

All repairs or expansions to a structure non-conforming to the required BFE shall be subject to the requirements of the National Flood Insurance Program and the adopted local Flood Plain regulations.

Objective 1-3.5 Manage Growth Rate within the City

The City shall manage the rate of new development to protect the quality of life for residents, enhance and protect natural resources, comply with adopted level of service standards for public facilities, effectively time public infrastructure and services according to the availability of public funds and support safe and timely evacuation prior to a hurricane. §163.3177(6)(a)3, 4 and 9 and §163.3177(6)(f)(1) F.S.

Policy 1-3.5.1 Annual Residential Allocation Rate

The number of allocations issued annually for residential development under the Residential Building Permit Allocation System (BPAS) shall not exceed a total annual unit cap of 30, plus any available unused BPAS allocations from a previous year. Unused BPAS allocations may be retained and made available only for affordable housing and Administrative Relief from BPAS year to BPAS year. Unused market rate allocations shall be available for Administrative Relief. Any unused affordable allocations will roll over to affordable housing. This BPAS allocation represents the total number of allocations for development that may be issued during a year. A BPAS year means the twelve-month period beginning on July 13.

No exemptions or increases in the number of allocations may be allowed, other than that which may be expressly provided for in the comprehensive plan or for which there is an existing agreement as of September 27, 2005, for affordable housing between the Department and the local government in the critical areas.

Through the Permit Allocation Systems, Marathon shall direct new growth and redevelopment to areas served by a central sewer system by 2015 that has committed or planned funding sources. Committed or planned funding is funding that is financially feasible and reflected in a Capital Improvements Element approved by the Department of Economic Opportunity. Prior to the ranking and approval of awards for an allocation authorizing development of new principal structures, Marathon shall increase an applicant's score by four points for parcels served by a collection line within a central wastewater facility service area where a central wastewater treatment facility has been constructed that meets the treatment standards of Sections

381.0065(4)(l) and 403.086(10), F.S., and where treatment capacity is available. The points shall only be awarded if a construction permit has been issued for the collection system and the parcel lies within the service area of the wastewater treatment facility.

Policy 1-3.5.2 Affordable Housing Allocations

The City shall receive a one time award of 65 affordable housing allocations for the 2005-2006 allocation year starting July 14, 2005.

Policy 1-3.5.3 Coordination of Annual Residential Allocations

The City shall coordinate with Monroe County, the Municipalities within Monroe County and other applicable agencies to establish and accept its equitable share of the Keys-wide allocations for new residential and non-residential development.

Policy 1-3.5.4 Residential Building Permit Allocation System (RBPAS)

On July 10th, 2007, the City adopted Ordinance 2007-14 approving Land Development Regulations that established a RBPAS to ensure that all environmental impacts will be mitigated or an equivalent amount of land acquisition funds donated, and ensure that the proposed development is consistent with all other applicable regulations. In no case shall more than one (1) BPAS allocation per year be issued for properties which are in part or whole designated as Hardwood Hammock, Palm Hammock, Cactus Hammock, or Beach/Berm on the City of Marathon Existing Conditions Maps or as determined by the City Biologist or private habitat survey. Donations in lieu of land dedication shall be based on an average of the appraised value of Conservation (C) land in the City. The weighting categories are hereby established as guidelines for developing the specific point values in Land Development Regulations:

<u>Weight Category</u>	<u>Range of Points</u>
Major	10 - 20
Moderate	5 - 9
Minor	0 - 4

DEVELOPMENT CRITERIA	WEIGHTING CATEGORY
Environmentally Sensitive Areas ²	Minor
Offshore Island, COBRA	Minor
Perseverance Points	Minor
Velocity Zone	Moderate
Extinguish Development Rights	Moderate
Local Residency	Moderate
Lot Dedication or Cash-in-Lieu of Dedication	Moderate
Provision of Affordable Housing with a Market Rate Development	Moderate
Water and Energy Conservation	Moderate
Structural Integrity of Construction	Moderate
Scarified lot without an existing paved or unpaved road or utilities	Moderate*
Scarified lot with an existing paved or unpaved road with existing	Major*

² As identified on the vegetation and species maps

water or electric service	
Infill lot with existing paved roads, water and electric service	Major

*The Land Development Regulations will identify the criteria for both moderate and major points based on the applicant's submittal and whether or not the moderate or major point criteria have been met.

- a. Provide disincentives for development in environmentally sensitive lands;
- b. Provide disincentives for development in offshore islands, COBRA and High Velocity Zones;
- c. Provide incentives for in-fill of developed subdivisions;
- d. Establish programs to extinguish development rights;
- e. Maintain an up-to-date hurricane evacuation plan and meet the required 24 hour hurricane evacuation time or other applicable state standard for hurricane evacuation;
- f. Provide priority/preference to established permanent local residents; and
- g. Provide incentives for mixed-income (affordable and market rate housing within one development) developments.

Policy 1-3.5.5 Non-Residential Development

In order to maintain a balance between residential and non-residential growth, the City shall limit the gross square footage of non-residential development to 250,000 square feet over the 10 year planning horizon. The economic study prepared by the Lambert Group states the City of Marathon will require 500,000 square feet of new commercial development over the next twenty years. This study is incorporated as part of this Plan by reference.

Policy 1-3.5.6 Non-Residential Development of Previously Accrued Commercial Square Feet

The City shall develop a Commercial Building Permit Allocation System (CBPAS) to allocate fifty seven thousand, three hundred sixty (57,360) square feet commercial square feet accrued by the City prior to the adoption of this Plan.

Policy 1-3.5.7 New Commercial Development

Upon adoption of the Plan, any new commercial development, receiving an allocation through the Commercial Building Permit Allocation System, shall only be permitted in the Mixed Use Commercial and Industrial Future Land Use districts.

Policy 1-3.5.8 Commercial Building Permit Allocation System (CBPAS)

On July 10th, 2007 the City adopted Ordinance 2007-14 approving Land Development Regulations that established a CBPAS to ensure that all environmental impacts will be mitigated or an equivalent amount of land acquisition funds donated, and ensure that the proposed development is consistent with all other applicable regulations. In no case shall more than one (1) BPAS allocation per year be issued for properties which are in part or whole designated as Hardwood Hammock, Palm Hammock, Cactus Hammock, or Beach/Berm on the City of Marathon Existing Conditions Maps or as determined by the City Biologist or private habitat

survey. Donations in lieu of land dedication shall be based on an average of the appraised value of Conservation (C) land in the City. The weighting categories are hereby established as guidelines for developing the specific point values in Land Development Regulations:

<u>Weight Category</u>	<u>Range of Points</u>
Major	10 - 20
Moderate	5 - 9
Minor	0 - 4

DEVELOPMENT CRITERIA	WEIGHTING CATEGORY
Environmentally Sensitive Areas ³	Minor
Offshore Island, COBRA	Minor
Perseverance Points	Minor
Velocity Zone	Moderate
Extinguish Development Rights	Moderate
Local Residency	Moderate
Lot Dedication or Cash-in-Lieu of Dedication	Moderate
Provision of Affordable Housing with a Market Rate Development	Moderate
Water and Energy Conservation	Moderate
Structural Integrity of Construction	Moderate
Scarified lot without an existing paved or unpaved road or utilities	Moderate*
Scarified lot with an existing paved or unpaved road with existing water or electric service	Major*
Infill lot with existing paved roads, water and electric service	Major

*The Land Development Regulations will identify the criteria for both moderate and major points based on the applicant's submittal and whether or not the moderate or major point criteria have been met.

- a. Provide disincentives for development in environmentally sensitive lands;
- b. Provide disincentives for development in offshore islands, COBRA and High Velocity Zones;
- c. Provide incentives for in-fill of developed subdivisions;
- d. Establish programs to extinguish development rights;
- e. Maintain an up-to-date hurricane evacuation plan and meet the required 24 hour hurricane evacuation time or other applicable state standard for hurricane evacuation;
- f. Provide priority/preference to established local business owners;
- g. Provide linkage for affordable housing; and

Policy 1-3.5.9 Allocation Exemption for Public Facilities

Public-owned facilities shall be exempted from the requirements of the non-residential allocation system. Such facilities shall not be placed in hammocks or environmentally sensitive areas

³ As identified on the vegetation and species maps

except permitted by Policy 4-1.2.11. Development activity by federally tax-exempt, not-for-profit educational, scientific, health, religious, social, cultural and recreational organizations may be exempted from the non-residential allocation system upon approval of the city council after review of findings that such activity will not adversely impact the hurricane evacuation clearance time of the City.

Policy 1-3.5.10 Protect Affordable Housing

The City shall designate no less than twenty percent (20%) of the residential allocations to affordable housing annually. Affordable housing eligible for this separate allocation must meet the criteria established in the Land Development Regulations. The City may not decrease the percentage reserved for affordable, but may, if approved by a super majority vote of City Council, increase the percentage and recognized multiple levels of affordability for separate allocation. The City shall work with the State to obtain more residential allocations specifically for affordable housing.

Policy 1-3.5.11 Consider Administrative Relief or Acquisition

With regards to the Allocation System, applicants who have met all requirements of the Land Development Regulations and the Plan, but are otherwise denied a permit, shall be eligible to request consideration for administrative relief, upon four years elapsing from the date of entry into the allocation system. The City shall adopt the criteria and procedures for Administrative Relief in the Land Development Regulations which shall include an acquisition program for environmentally sensitive lands. The City will not approve BPAS allocations for Administrative Relief on lands within the Florida Forever targeted acquisition area or for other environmentally sensitive lands unless a determination has been made in writing that the parcel will not be purchased by any city, state, or federal agency. The City has 180 days to make this determination or an application for Administrative Relief will otherwise be processed.

Policy 1-3.5.12 Establish Beneficial Use Criteria and Procedures

The City shall maintain the criteria and administrative procedures under which an owner of real property that has applied for and been denied a development permit may apply for relief, through beneficial use, from the literal application of the Plan and applicable Land Development Regulations when such application would have the effect of denying all economically reasonable use of that property unless such deprivation is shown to be necessary to prevent a nuisance or to protect the health, safety and welfare of its citizens under Florida Law. If the real property is environmentally sensitive, the first option of the City shall be an offer to purchase the property. For the purpose of this policy, all reasonable economic use shall mean the minimum use of the property necessary to avoid a taking within a reasonable period of time as established by current land use case law.

Policy 1-3.5.13 Inventory Affordable/Workforce Housing

The City shall continue to maintain an inventory of all existing affordable and workforce housing, including mobile homes, RVs, motels, and any alternative type of dwelling unit that may be used as affordable/workforce housing. The City shall prepare a report, consistent with Policy 2-1.1.8, which at a minimum shall identify the number and type of units. This report shall also include an estimate of the number of these units that may not have been lawfully established

or fall under the umbrella for density entitlement. The report shall further analyze the impacts on the adopted level of service (LOS) standards as a result of the existing units which may not have been lawfully established or which may not fall under the umbrella for density entitlement. On the basis of this report the City shall explore the feasibility, through coordination with the DEO and a Plan amendment, of allowing for the replacement, outside of the annual allocation system, of select identified units from this category. The City shall establish an incentive program encouraging registration and protection of these units along with specific measures to effectively maintain the number of units that are identified as affordable. §163.3177(6)(f)2 F.S.

Policy 1-3.5.14 Establish a Land Acquisition and Conservation Advisory Committee

The City has established a Land Acquisition and Conservation Advisory Committee. This Committee, in conjunction with City staff, shall draft a report recommending the best means for land acquisition and land conservation. The report shall include, at a minimum, a system for prioritizing acquisition for affordable/workforce housing, public uses, and conservation sites, as well as a system for continued monitoring, evaluation and updating adopted programs. The City shall maintain a list of properties containing environmentally sensitive lands in need of acquisition and shall periodically, or upon request, submit this list to the Department of Economic Opportunity. Through the Building Permit Allocation System (BPAS), development in environmentally sensitive areas shall be limited and discouraged.

Policy 1-3.5.15 Establish and Coordinate Acquisition Programs

The City shall continue to assist the state in land acquisition efforts through the land acquisition advisory committee to prioritize proposed acquisitions and shall continue to evaluate its land acquisition needs as well as state and federal funding opportunities. The City has established a land acquisition program and a Capital Investment Plan for the acquisition of environmentally sensitive land, land for affordable housing, open space, parks and recreation, and the purchase of development rights in coordination with regional, State, Federal and private programs, including but not limited to the Department of Environmental Protection, the Monroe County Land Authority, the Department of Economic Opportunity and other agencies with an interest in conservation lands and shall apply annually to at least one state or federal land acquisition grant program. This Capital Investment Plan is incorporated into the City's Capital Improvement Program.

Policy 1-3.5.16 Program for Transfer of Density and Building Rights (TDR's and TBR's)

- a. The transfer of density and building rights within the City's boundaries shall attempt to achieve the following:
1. Protect environmental resources in balance with the protection of property rights;
 2. Encourage the replacement of substandard structures, non-conforming structures, structures within environmentally sensitive habitat; structures subject to repetitive flood damage, and units or non-residential square footage which exceeds density limitations;
 3. Facilitate redevelopment and revitalize the commercial centers by concentrating mixed use activities;
 4. Facilitate the redevelopment and revitalization of hotels and motels in the City;

5. Protect housing affordability and facilitate the provision of new affordable housing units throughout the City;
6. Redistribute existing residential units or densities from more environmentally sensitive properties to less environmentally sensitive properties to encourage infill development and achieve planned densities without increasing the overall density;
7. Protect environmentally sensitive sites through the removal of existing dwelling units or allocated development rights;
8. Encourage the placement of conservation easements on environmentally sensitive or flood prone parcels of land;
9. Further the public good and the goals, objectives and policies of the Plan;
10. Protect housing affordability and facilitate the provision of new affordable housing units throughout the City.

b. Transfer of Residential Density (TDRs)

1. Residential density (TDRs) shall only be transferable from a FLUM category of lower density to one of higher density as defined in Table 1-1 of the Comprehensive Plan. Properties with a FLUM category of Conservation shall not be eligible as TDR receiver sites. TDRs are only transferable to receiver site properties whose habitats are deemed by the City Biologist to be less sensitive than the sender site properties as defined in policy 4-1.5.8.
2. Increases in Residential Density which are greater than those allowed for a given FLUM category in Table 1-1 may occur, but shall only occur as a result of a TDR transfer. Such TDR transfers shall not exceed 20 percent of the Future Land Use Densities allowed by FLUM category in Table 1-1.
3. If a property owner intends to achieve a residential density higher than a 20 percent increase over that allowed in Table 1-1, then the owner must seek a FLUM change to a FLUM category which would allow a greater residential density. However, there shall be no presumption in any request that the request must be or will be granted by the City. If the FLUM change is granted, then the difference in residential density between the two FLUM categories must be achieved through a transfer of TDRs which shall not exceed the density allowed in Table 1-1 for the new FLUM category.
4. The transfer of TDRs is subject to approval by the City based on the criteria established in b. 1. and 2. above. All transfers of TDRs must identify the removal of the TDRs from the sender site and their transfer to the receiving site and be recorded in the chain of title for both properties.
5. Lands for which all residential density has been entirely removed must have a maintenance program to continuously remove exotic invasive vegetation or be transferred to an appropriate land management entity, such as the State of Florida or the City of Marathon.

c. Transfer of Building Rights (TBRs)

1. Transferable Building Rights (TBRs) shall only be transferable from a FLUM category of lower density to one of equal or higher density as defined in Table 1-1 of the Comprehensive Plan. Properties with a FLUM category of Conservation

shall not be eligible as TBR receiver sites. Transferable Building Rights (TBRs) are only transferable to receiver site properties whose habitats are deemed by the City Biologist to be less sensitive than the sender site properties as defined in policy 4-1.5.8

2. The transfer of TBRs is subject to approval by the City based on the criteria established in c. 1. and 2. above. All transfers of TBRs must identify the removal of the TBRs from the sender site and their transfer to the receiving site and be recorded in the chain of title for both properties.
3. Alternatively, TBRs may be "banked" with the City for a period not to exceed two (2) years. TBRs so banked must identify the removal of the TBRs from the sender site and that they have been banked with the City pursuant to a specific agreement with the City, which shall be recorded in the chain of title of the sending site.

Policy 1-3.5.17 Provide Compliance Bonuses

Upon the effective date of the Plan, the following limited outdoor uses may be permitted, only as an accessory use, ancillary to a lawfully established principal use of a parcel outside of the Non-Residential Building permit allocations system:

1. Each parcel of land on which a non-residential use has a been lawfully established may be granted upon application, up to one hundred (100) square feet of uncovered outdoor storage area or one covered storage shed of up to one hundred (100) square feet, to be located or screened with native vegetation so as not to be visible from US 1. Approval of such accessory use shall be conditional upon the site being in compliance with the density, intensity, and parking requirements of the Land Development Regulations, including environmental regulations, and all landscaped bufferyards on the property being brought into compliance to the maximum extent practicable, through the removal of any impervious surfaces, including asphalt, as necessary to meet this requirement.
2. Each parcel of land on which is a lawfully established multi-tenant center exists may be granted upon application, up to one hundred (100) square feet of uncovered outdoor stage area or one covered storage shed up to one hundred (100) square feet, to be located or screened with native vegetation so as not to be visible from US 1. Approval of such accessory use shall be conditional upon the site being in compliance with the density, intensity, and parking requirements of the Land Development Regulations including environmental regulations, and all landscaped bufferyards on the property being brought into compliance to the maximum extent practicable, through the removal of any impervious surfaces, including asphalt, as necessary to meet this requirement.

As an alternative to the above option 1 or 2, each lawfully established restaurant may be granted upon application, up to one hundred fifty (150) square feet of covered or uncovered, unenclosed seating area, provided that the restaurant is not located adjacent to a residential use. Approval of such accessory use shall be conditional upon the site being in compliance with the density, intensity and parking requirements of the Land Development Regulations, including

environmental regulations, and all landscape bufferyards on the property are being brought into compliance to the most reasonable extent practicable, through the removal of any impervious surfaces, including asphalt, as necessary to meet this requirement, as well as compliance with the surface water management provisions of the Land Development Regulations.

This bonus square footage shall be first applied to any existing but intermitted outdoor storage area, sheds or seating. Additionally, such square footage as may be granted pursuant to this policy shall not be eligible to be calculated as replacement square footage for the purpose of redevelopment or expansion of any primary or accessory use located on the property to which it has been granted, or any other property.

Objective 1-3.6 Protect Property Rights

Neither the provisions of the Plan nor the Land Development Regulations shall deprive a property owner of all reasonable economic use of a parcel of real property which is a lot or parcel of record as of the effective date of the Plan. The development or use of each parcel is subject to, and restricted by the Goals, Objectives and Policies of the Plan and Land Development Regulations implementing the Plan, therefore, no building permits shall be issued by the City unless the proposed development complies with the Plan and the Land Development Regulations. §163.3177(6)(a)4 F.S.

Policy 1-3.6.1 Establish Vested Rights Criteria and Procedures for the Plan

An application for a determination of common law vested rights from the literal application of the Plan must be submitted by the applicant to the City Manager or designee within six (6) months after the effective date of the Plan.

Nothing in this Plan shall be construed or applied to abrogate the right of a property owner that has submitted a complete development agreement application on or before the adopted date of this Plan to proceed with the project pursuant to the Transitional Comprehensive Plan and implementing land development regulations without having to obtain a vested rights determination as otherwise provided for in this Policy. Any such project, however, shall comply with Objective 1-3.3. and the policies contained therein. The parties to the development agreement shall not be precluded from complying with the provisions of this Plan or the Transitional Comprehensive Plan, as provided in the development agreement.

Policy 1-3.6.2 Establish Vested Rights Criteria and Procedures for LDRs

The City shall continue to maintain criteria and administrative procedures under which an owner of real property may apply for relief, through vested rights, from the literal application of the Land Development Regulations when such application would have the effect of denying all economically reasonable use of that property unless such deprivation is shown to be necessary to prevent a nuisance or to protect the health, safety and welfare of its citizens under Florida Law. For the purpose of this policy, all reasonable economic use shall mean the minimum use of the property necessary to avoid a taking within a reasonable period of time as established by current land use case law.

Policy 1-3.6.3 Require Compliance to Regulations

A vested rights determination shall not preclude the City from subjecting the proposed development to the Land Development Regulations in effect on the date of the vested rights determination or adopted subsequent to the vested rights determination unless the development is shown to be vested with regard to the subject matter addressed by a prior development order.

Policy 1-3.6.4 Establish an Expiration Date

A vested rights determination shall specify an expiration date by which all building permits necessary for development shall have been issued and the development completed. The expiration date shall be reasonable and in no event later than the date specified in the original development order.

Policy 1-3.6.5 Establish the Minimal Relief Granted

The relief granted, under a beneficial use or vested rights determination, shall be the minimum necessary to avoid a "taking" of the property under state and federal law.

Policy 1-3.6.6 Establish Acquisition Funding Sources

Within twelve months of the effective date of the Plan, the City shall coordinate with the Monroe County Land Authority, or alternate funding agency, to establish a procedure by which the purchase of parcels deemed to have limited development rights by the literal application of the Plan shall be considered as an alternative to beneficial use relief.