



City of Marathon Planning Commission
Monday July 18, 2022
9805 Overseas Hwy
City Hall Council Chambers
5:30 PM

- 1. Call To Order**
 - 2. Pledge Of Allegiance**
 - 3. Roll Call**
 - 4. Minutes**
 - 5. Quasi-Judicial Statement**
 - 6. Items For Public Hearing**
 - 7. Adjournment**
-

5. Please be advised that some of the items on the agenda are quasi-judicial in nature. If you wish to give testimony on any item, please inform the Boards clerk by filling out an available sign-up form. An opportunity to speak will be made available after the applicant and staff have made their presentations on each item. All testimony, including public testimony and evidence, will be made under oath or affirmation. Additionally, all persons giving testimony may be subject to cross examination. If you refuse either to be cross examined or to be sworn your testimony will not be considered. The public will not be allowed to cross examine witnesses, but they can ask the Commission to ask questions on their behalf. Persons representing organizations must present evidence of their authority to speak for the organization.

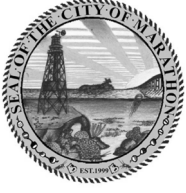
6. Items For Public Hearing

1. Consideration Of A Request By Skocean LLC For A Conditional Use Permit, Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (“The Code”) Entitled “Conditional Use Permits”, Authorizing The Development Of An Outdoor Boat Trailer Storage Yard Located At 8151 Overseas Highway; Which Is Legally Described As Block 3 Lots 1, 2, 3, and 45 Lida Subdivision First Addition, Key Vaca PB4-103, Monroe County, Florida, Having Real Estate Number 00348171-000000. Nearest Mile Marker 51.

2. An Ordinance Of The City Of Marathon, Florida Amending The Future Land Use Map (FLUM) From Residential Medium (RM) To Recreation (R) For Property Described As Waloriss Sub PB3-113 (Park), Having Real Estate Number 00354681-000000; 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.

3. An Ordinance Of The City Of Marathon Florida Amending The Zoning From Residential Medium (RM) To Parks and Recreation (PR) For Property Described As Waloriss Sub PB3-113 (Park), Having Real Estate Number 00354681-000000; 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.

4. An Ordinance Of The City Council Of The City Of Marathon, Florida, Amending Chapter 102 “Development Application Review Procedures”, Article 6 “Comprehensive Plan Amendment”, Amending Figure 102.22.1 “Comprehensive Plan Amendment Review Process”, And Article 7 “Land Development Text Amendment”, Amending Figure 102.28.1 “Land Development Regulation Text Amendment Process”, And Article 11 “Rezoning”, Amending Figure 102.62.1 “Rezoning Review Process”, And Article 13 “Conditional Use”, Amending Figure 102.80.1 “Conditional Use Permit Review Process”, And Article 17 “Appeals”, Amending Figure 102.98.1 “Appeals Review Process”, And Article 18 “Beneficial Use Determinations”, Amending Figure 102.104.1 “Beneficial Use Determinations Process”, And Article 19 “Vested Rights Determinations”, Amending Figure 102.112.1 “Vested Rights Determinations”, And Article 18 “Beneficial Use Determinations”, Amending Section 102.104 “Final Determination By Council”, And Article 19 “Vested Rights Determinations”, Amending Section 102.110 “Final Determination”; And Amending Chapter 110 “Definitions”, Article 2 “Acronyms”; To Update Language Pertaining To The Obsolete Department Of Community Affairs (DCA) To Reflect The Current Department Of Economic Opportunity (DEO); Providing For The Repeal Of All Code Provisions And Ordinances Inconsistent With This Ordinance; Providing For Severability; Providing For Inclusion In The Code; 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 Department Of Economic Opportunity In Accordance With State Law.



**City of Marathon Planning Commission
Monday June 27, 2022
9805 Overseas Hwy
City Hall Council Chambers**

MINUTES

Landry called the meeting of the Planning Commission to order on Monday, June 27, 2022, at 5:30 pm.

In attendance: Planning Director Brian Shea, Planner Erin Dafoe, Attorney Steve Williams, City Manager George Garrett, and Admin Assistant Lorie Mullins.

The Pledge of Allegiance was recited.

The roll was called. Mike Cinque-present; Matt Sexton-absent; Malloy Pinto-absent; Mary Ann Royse-present; Lynn Landry-present.

Minutes were amended and Cinque made a motion to approve as amended. Royse seconded. The roll was called. The minutes were approved 3-0.

Item 1 was read into the record.

Consideration Of A Request By Thomas Francis-Siburg For A Conditional Use Permit, Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (“The Code”) Entitled “Conditional Use Permits”, Authorizing The Development Of An Existing Convenience Store Providing Fuel Sales With The Addition Of A Car Wash At The Property Located At 6203 Overseas Highway, Ocean, Which Is Legally Described As Edmonds Acreage Tracts PB2-100 A Subdivision Of Part Government Lot 1 Section 11 Township 66S Range 32E Key Vaca Part E1/2 Tract 10, Marathon, Monroe County, Florida, Having Real Estate Number 00338730-000600 & Sheryl Subdivision 2 Plat Book 4-43 Key Vaca Lots 1-2 And Part 3-4 Block C, Monroe County, Florida, Having Real Estate Number 00339960-000000. Nearest Mile Marker 50.

Dafoe presented the item.

There was a brief discussion on the amount of space for entering and exiting the car wash, and possible traffic congestion on US1 and the side street.

Thomas Francis-Siburg presented the item on behalf of the owner.

Landry opened the meeting to public speakers.

- Dr. Edward Noga. His concern is noise at all hours of the night with a 24-hour carwash.

Cinque mentioned the convenience store parking will be a problem with only 5 spaces and 1 handicap space.

After a brief discussion, Royce moved to approve the item with the condition that the hours of operation run concurrent with the convenience store. Landry seconded.

The roll was called. The item was approved 3-0.

Adjourned at 5:57 p.m.

ATTEST:

Lynn Landry – Planning Commission Chairman

ATTEST:

Lorie Mullins-Admin Assistant
City of Marathon Planning Department

Audio-Video is available upon request.

Pursuant to Section 286.0105, Florida Statutes, if a person decides to appeal any decision made by the Planning Commission with respect to any matter considered at such hearing or meeting, one will need a record of the proceedings and for such purpose that person may need to ensure that a verbatim record of the proceedings is made; such record includes the testimony and evidence upon which the appeal is to be based.

ADA Assistance: Anyone needing special assistance at the Planning Commission Meeting due to disability should contact the City of Marathon at (305-) 743-0033 at least two days prior thereto.

(Please note that one or more Marathon City Council members may participate in the meeting.)



PLANNING COMMISSION AGENDA STATEMENT

Meeting Date: July 18, 2022

To: Honorable Chair and Planning Commissioners

From: Erin Dafoe, Planner

Agenda Item: Consideration Of A Request By Skocean LLC For A Conditional Use Permit, Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (“The Code”) Entitled “Conditional Use Permits”, Authorizing The Development Of An Outdoor Boat Trailer Storage Yard Located At 8151 Overseas Highway; Which Is Legally Described As Block 3 Lots 1, 2, 3, and 45 Lida Subdivision First Addition, Key Vaca PB4-103, Monroe County, Florida, Having Real Estate Number 00348171-000000. Nearest Mile Marker 51.

APPLICANT/ OWNER: Skocean, LLC/ Marathon Landings, LLC

AGENT: Mike Card

LOCATION: The project site is located at 8151 Overseas Highway at nearest mile marker 51. See Figure 1.

REQUEST: A Conditional Use Permit approving a change of use to an outdoor boat trailer storage yard to be located on the subject vacant property; having the real estate number 00348171-000000.

LOT SIZE: Total acreage 0.80 acres or 34,888 square feet

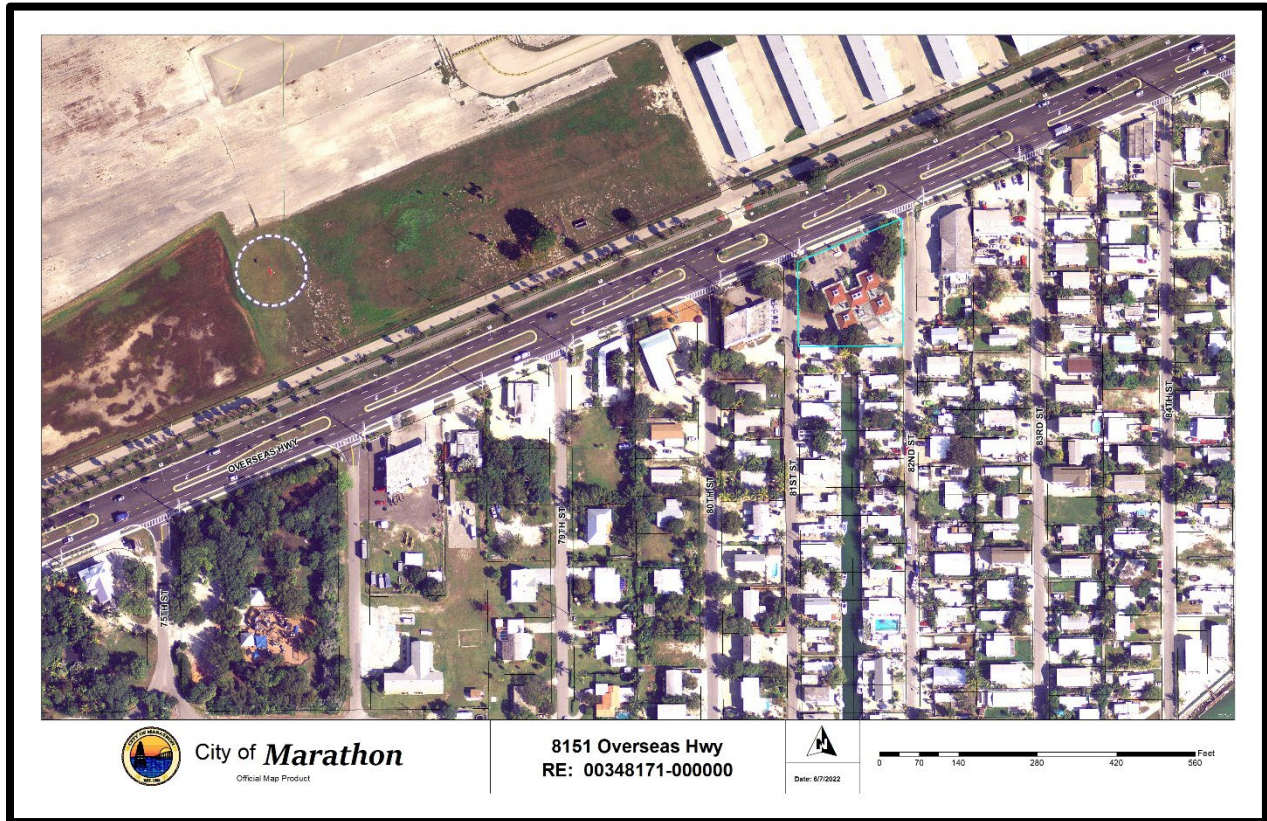
SURROUNDING ZONING AND USES:

	<u>Zoning</u>	<u>Use</u>
North	Mixed Use (MU)	Marathon Airport
West	Mixed Use (MU)	Bishop Building Offices
East	Mixed Use (MU)	Marathon Elks Club
South	Residential Medium (RM)	Residential houses

EXISTING CONDITIONS:

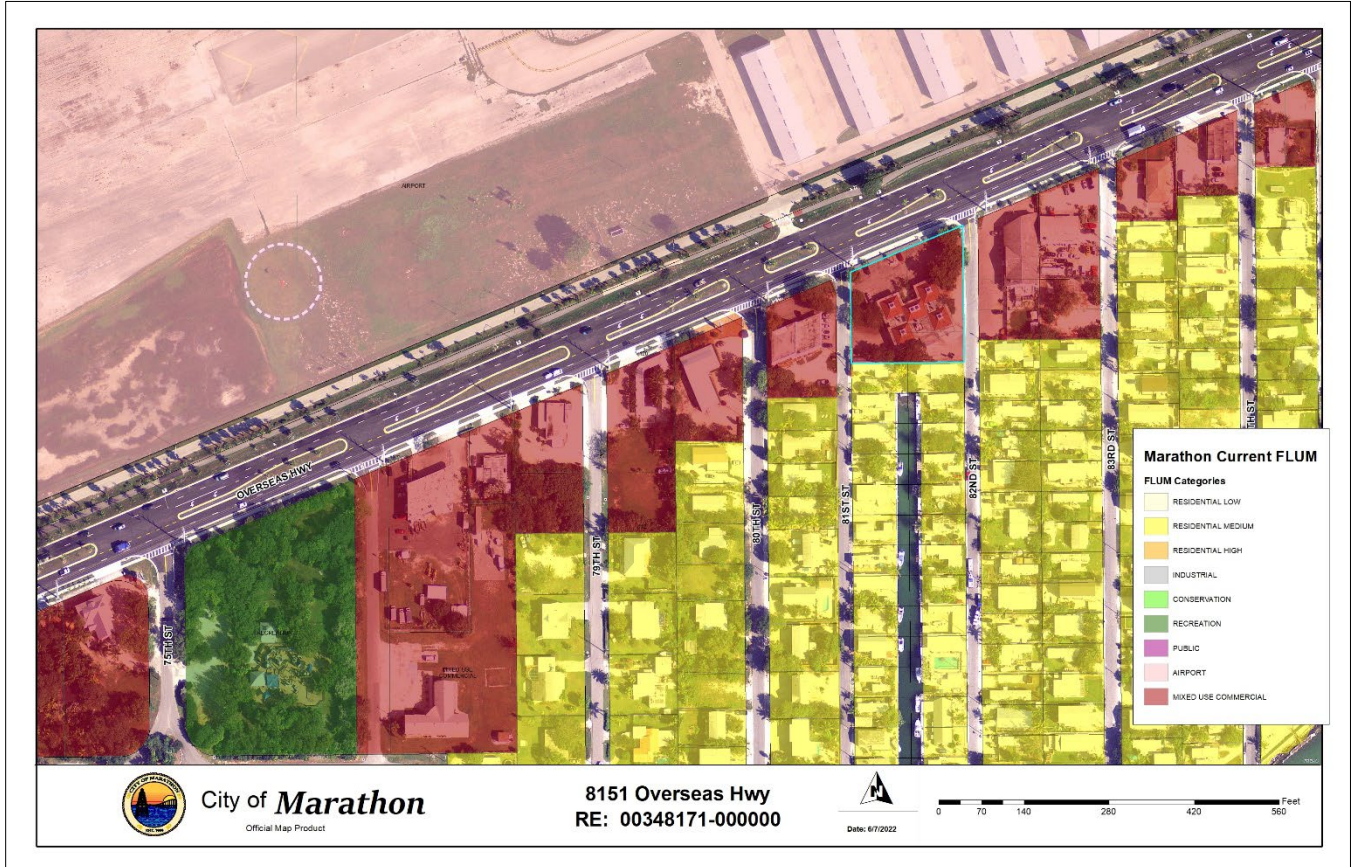
The project site consists of a vacant lot that previously housed medical offices before the structure was damaged by Hurricane Irma and demolished. The existing FLUM is Mixed Use Commercial (MU-C), and the zoning is Mixed Use (MU). See Figures 2 and 3.

Figure 1
Project Site



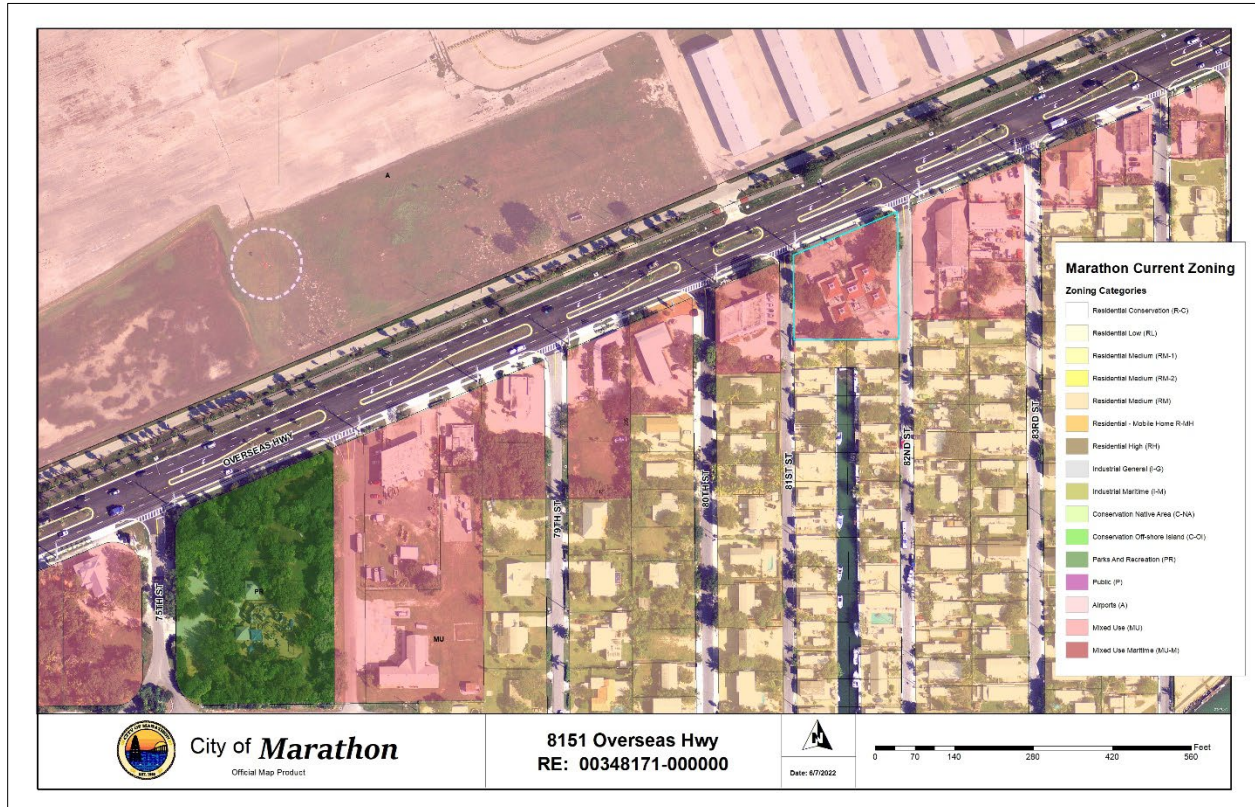
FUTURE LAND USE MAP DESIGNATION:
Mixed Use Commercial (MU-C). See Figure 2.

Figure 2
Future Land Use Map



ZONING MAP DESIGNATION:
Mixed Use (MU). See Figure 3.

Figure 3
Zoning Map



PROPOSED REDEVELOPMENT:

The Applicant requests a change of use to develop an outdoor boat trailer storage yard.

BACKGROUND:

The proposed project seeks to utilize the vacant lot for outdoor boat trailer storage. Future plans consist of boat trailer racks to be installed and secured to the ground as well as a future elevated office building. The total property size is 34,888 square feet. In general, staff sees no impacts from the development of the project, except minimally, for traffic flow on US 1.

EVALUATION FOR COMPLIANCE WITH THE LAND DEVELOPMENT REGULATIONS:

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

CRITERIA

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

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

The proposed project is for an outdoor trailer storage yard, an allowed use pursuant to Table 103.15.1 of the LDRs, supported by elements of the Comprehensive Plan. Relevant Policies concerning this project follow:

City of Marathon Comprehensive Plan

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

The project is surrounded by commercial development with the exception of the properties to the south which is residential housing.

d. Policy 1-3.1.4 Future Land Use Categories

The Future Land Use Map (FLUM) designates the parcels as Mixed-Use Commercial. Within this designation various commercial uses are permitting in addition to residential uses including affordable and/or commercial apartments as well as single-family homes. The project is consistent with the intent of this district and neither a zoning nor FLUM change is necessary for this project.

e. Policy 1-3.2.5 Maximum Height

The project area is a vacant lot. There are future plans to have an elevated small office building however the height will be well under what is allowed under the City’s Comprehensive Plan.

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

The project does not exceed the commercial intensity and residential density limitations of the City’s Comprehensive Plan. This project proposes within a year the construction of a small, elevated office building.

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

The proposed new business promotes the revitalization of the city’s commercial area, with existing commercial to the west and east. Since the building was used previously for commercial use as an old medical building, landscaping, and buffering were already in place with plans submitted for additional plantings.

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

The project site was demolished within the past year and complies to the maximum extent practicable with the current City regulations. The project in the future may add a small, elevated office building.

City of Marathon Land Development Regulations

- Section 103.09 – Mixed Use (MU)

The MU District is intended to accommodate a wide range of commercial and residential uses and activities including the outdoor boat trailer storage yard.

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

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

- Table 103.15.2 in the Land Development Regulations establishes constraints on density and intensity allowed in the MU district based on the types of uses proposed. The proposed uses fall within the allowed intensities for the site. As it is not anticipated that the project will create any additional impacts on services or in requirements for parking, the project then meets the criteria set out above for improving such sites to the maximum extent practicable with diminimus changes in existing or new uses.

- Section 107.47 Parking

Parking for the site and the project is for short term boat trailers only. Once office is constructed there will need to be parking spaces provided at that time.

- Section 107.40 Maximum Height

The project site is vacant land, and the future office structure and boat storage racks will be well below the forty-two (42) foot height limitation of the City's LDRs.

- Sections 107.63 – 107.72 Landscaping

A landscape plan has been submitted to feature silver buttonwoods as a buffer hedge as well as canopy tree, smaller shrubs, and palms.

- Sections 107.73 – 107.81 Open Space

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

- Sections 107.82 – 107.85 Fences and Screening

Landscaping plan has been submitted. In this context, the project meets City screening and landscaping requirements.

- Sections 107.87 – 107.97 Stormwater Management

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

- Sections 107.98 – 107.102.5 Floodplain Management

The site is vacant land.

The project as proposed meets the basic definition of development in the MU zoning district. Therefore, with conditions, the request is ***in compliance*** with the requirements of these sections.

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

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

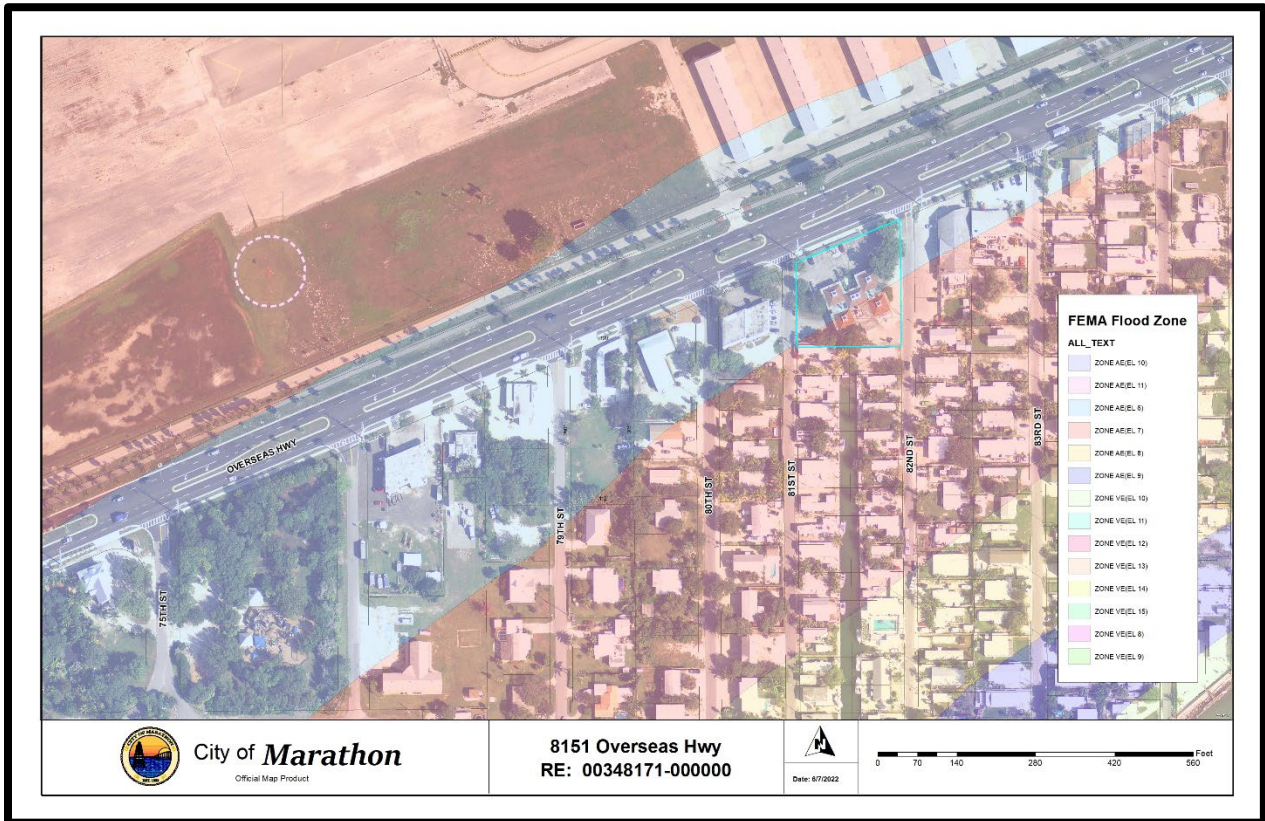
Therefore, the request is ***in compliance*** with the requirements of these sections.

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

The proposed conditional use will enhance the community by providing a short-term boat trailer storage yard which is an enhancement to the City's capacity to provide great social service benefits. The project will not cause any negative impacts to the City's health, safety, and welfare.

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

**Figure 4
Flood Zones**

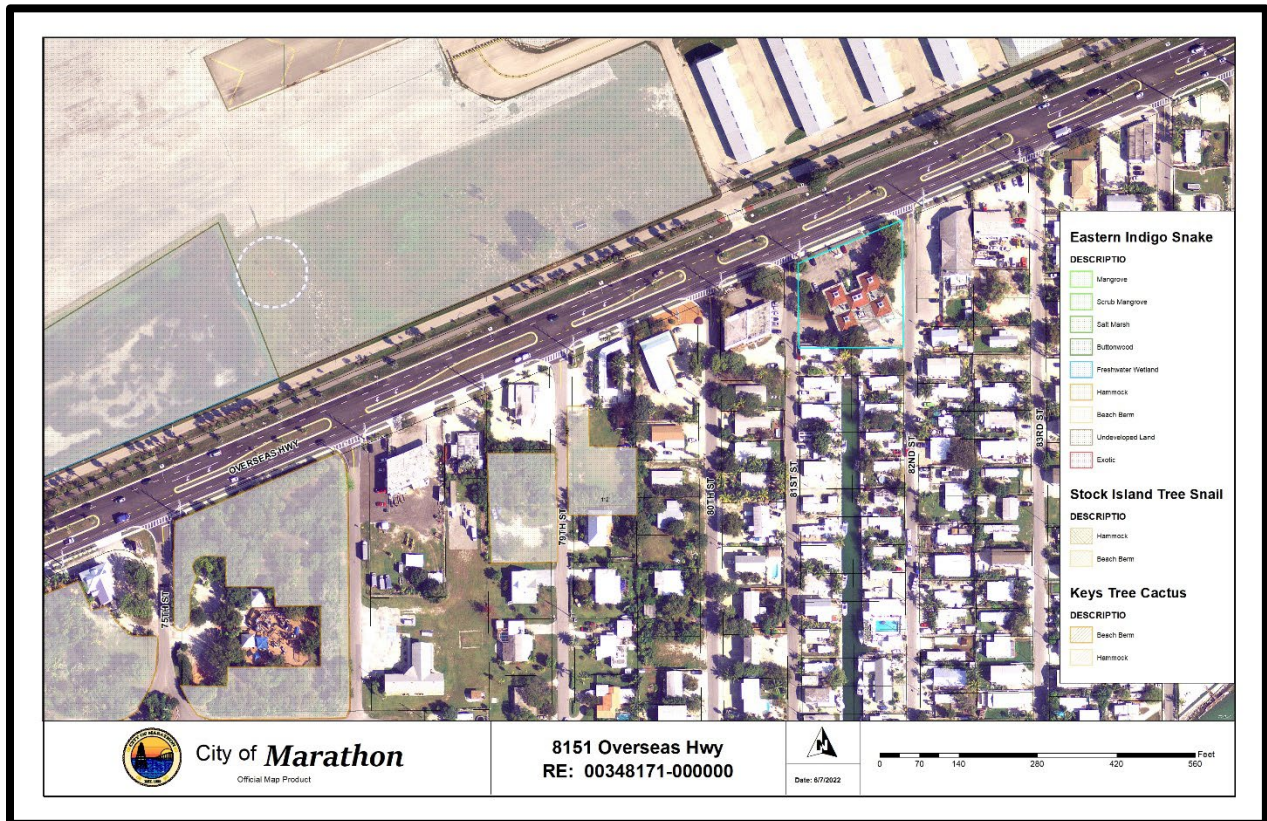


D. The proposed conditional use minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment:

There will be no negative impacts on habitat, environment, or water quality parameters. A map of the area indicates that surrounding properties are not within the FEMA-FWS Species Focus Area.

Figure 5

FEMA – FWS Species Focus Area Maps



A landscape plan has been submitted which will use existing buffering as well as additional landscape material added.

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

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

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

A traffic study was required. Parking will be provided for boat trailer storage. There is a full access driveway on both 81st St and 82nd Street. The traffic will be one way directional with entrance at 81st street and exit at 82nd.

Table 1 Card Trailer Storage Trip Generation Analysis Marathon, Florida								
Land Use	Size	Daily Trips	AM Peak Hour Trips			PM Peak Hour Trips		
			In	Out	Total	In	Out	Total
<i>Proposed Development</i> Marina - Boat Trailer Storage	75 Spaces	97	1	2	3	5	3	8

Compiled by: KBP Consulting, Inc. (June 2022).

Section 107.43 requires site triangles where the access drive intersects with the street. Clear site triangles must be shown on final site plan.

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

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

Parking requirements are outlined in Section 107.47 (Mixed-Use Development Parking Requirements). The project will require limited parking as clients utilizing the facility will be dropping off and pickup up boat trailers at scheduled times. One parking space per 400 square feet gross floor area will be required.

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

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

The proposed use has no known impacts to the health safety and welfare of the public. While there are some screenings and buffering in place per the landscape plan there will be additional plantings installed. Final lighting plan must be submitted prior to permit issuance.

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

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

Section 107.39 requires that all dumpsters be fully enclosed and screened. At this time, no dumpsters are needed on site. This will be reviewed with future building plans when submitted.

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

5. Utilities, with reference to location and availability;

Chapter 107, Article 13, establishes the City's Concurrency Management and certification requirements. This Conditional Use constitutes the City's Concurrency Level of Service Certificate, as follows. The project will utilize existing space and will thus have a de minimus impact.

- Wastewater: Sewer connection is on site; addition of office would be de minimis impact.
- Water: The Florida Keys Aqueduct Authority already provide potable water for the facility.
- Solid Waste: Marathon Garbage Service can provide service of solid waste disposal.
- Surface Water: Site plan and stormwater plan will be reviewed with submittal of permit set for issuance of building permit.
- Recreation and Open Space: This development will have no impact on recreational open space.
- Roadways: The applicant is redeveloping the site at a lower density and intensity than contained within the prior development, and therefore is assumed to have a de minimis impact on transportation facilities.

The Applicant has provided letters of coordination with all necessary utilities with the general determination that all required services may be provided and are adequate for the development of the new use at the project site.

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

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

The proposed landscape meets the minimum requirements per Section 107.70 for project buffer requirements. According to the Code, two (2) canopy trees and two (2) understory trees per one hundred linear feet of property frontage, located within a ten-foot-wide landscape buffer. All parking shall be screened from the right-of-way by a landscaped buffer along the streets, including a continuous hedge or combination hedge and earth berm providing a three-foot high visual screen within two (2) years of planting. The buffer along the US-1 corridor is existing from the previous development and meets requirements. A high buffer is required along the south property line per Section 107.70.2. The City Biologist has reviewed the submitted landscape plan and has found it to be in compliance.

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

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

A review of sign requirements at this stage in development approval is not necessary; however, signs for the project will be reviewed prior to issuance of a building permit according to Chapter 107, Article 7, Signs. Signs will be placed at each driveway indicating direction for flow of traffic as well as a sign per Code at US 1.

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

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

8. Required yards and other open space;

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

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

9. General compatibility with surrounding properties; and

The applicant proposed a new use in an existing vacant lot. All activities associated with the use will be located within the vacant property. Activities associated with the new use should not affect other commercial ventures or the neighboring residential community.

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

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

The applicant proposes a new use, outdoor boat trailer storage yard. Screening is required for outdoor storage and is addressed in Section E, 6. above.

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

CONCLUSION:

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

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

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

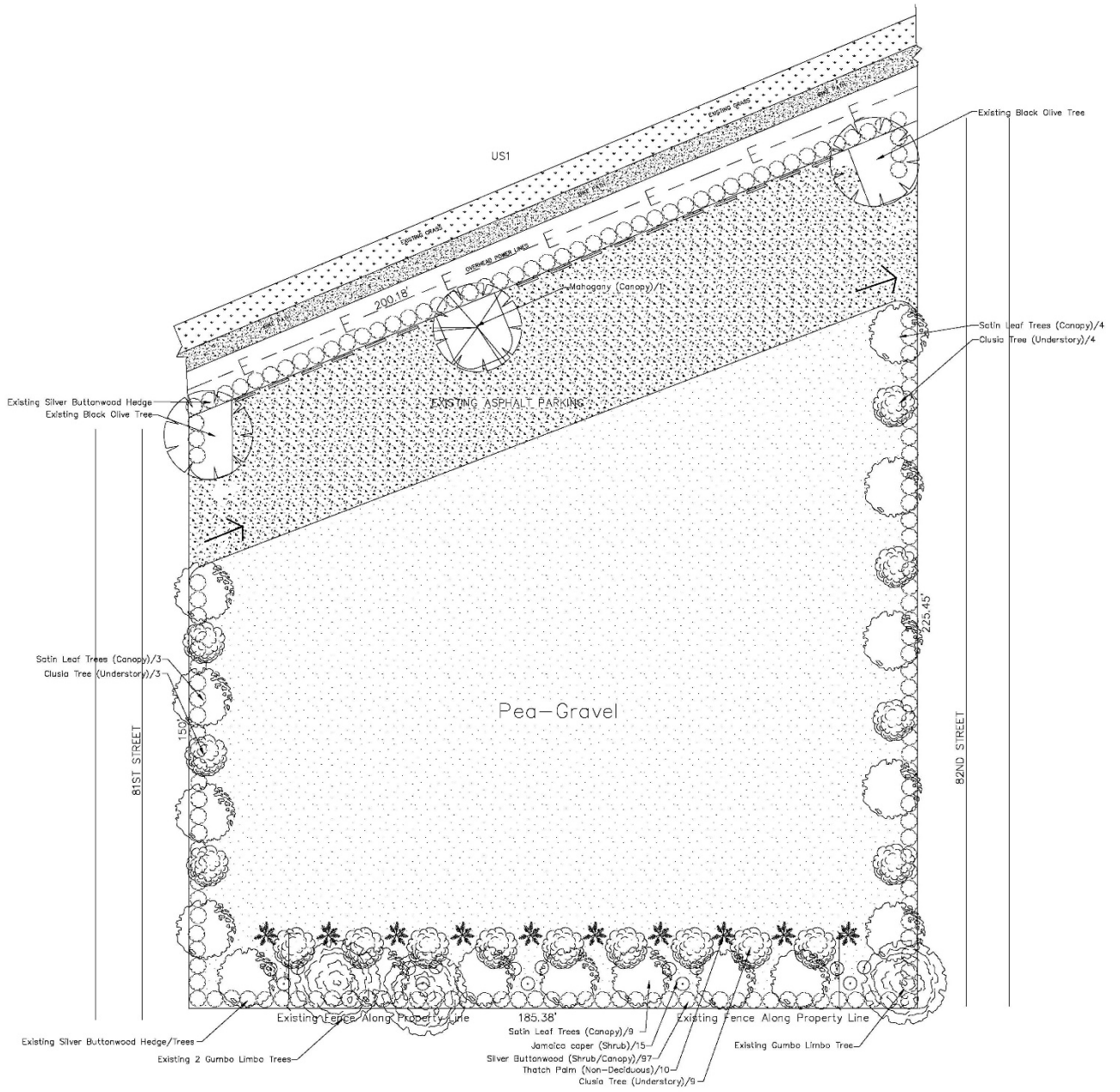
RECOMMENDATION:

Planning staff recommends approval of the proposed Conditional Use Permit allowing an outdoor boat trailer storage yard with the following conditions:

Conditions of Approval

1. The applicant will show clear site triangles on final site plan.
2. The applicant must submit a final lighting plan prior to permit issuance.
3. The applicant will provide one parking space per 400 square feet gross floor area.
4. The applicant will provide fire protection plans in accordance with fire protection requirements as outlined by the City Fire Marshal;
5. The applicant will meet all floodplain related requirements as part of the Building Permit process;
6. The applicant will obtain City approval of the stormwater management system prior to Building Permit issuance;
7. The applicant will obtain City approval of wastewater management through the City's Wastewater Utility;
8. The applicant will obtain the required permits to fully enclose and screen the dumpster in accordance with Section 107.39;
9. The applicant will obtain sign permits for any signs erected on the property, as required under the code; and
10. The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.

Landscape Plan



Site plan with racks and office



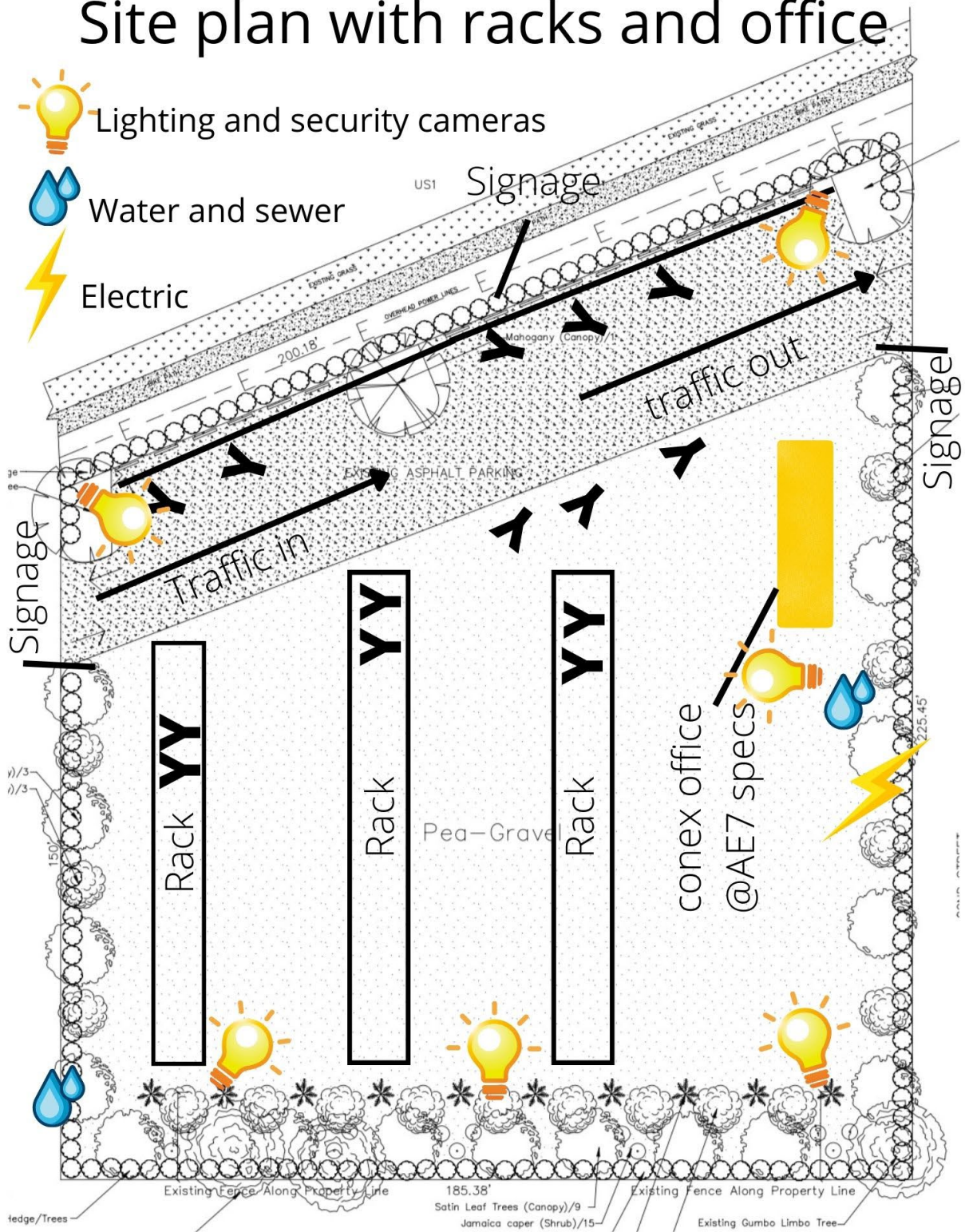
Lighting and security cameras



Water and sewer



Electric



PLANNING COMMISSION AGENDA STATEMENT



Meeting Date: July 18, 2022

From: Amber Stonik, Planning Associate

Agenda Items:

An Ordinance Of The City Of Marathon, Florida Amending The Future Land Use Map (FLUM) From Residential Medium (RM) To Recreation (R) For Property Described As Waloriss Subdivision PB3-113 (Park), Having Real Estate Number 00354681-000000; 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-

An Ordinance Of The City Of Marathon Florida Amending The Zoning From Residential Medium (RM) To Parks and Recreation (PR) For Property Described As Waloriss Subdivision PB3-113 (Park), Having Real Estate Number 00354681-000000; 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: City of Marathon

LOCATION: The subject property is vacant land located on Calle Ensenada and is legally described as Waloriss Sub PB3-113 (Park), Having Real Estate Number 00354681-000000. Nearest Mile Marker 52

ADDRESS: Vacant Land, Calle Ensenada

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

- AND-

Amend the Zoning Map for the subject properties from Residential Medium (RM) to Parks and Recreation (PR)

LOT AREA: The aggregated size of the parcels is approximately 0.24089 acres (10,493.17 sq ft.)

LOCATION MAP

Existing FLUM and Zoning



Current and Proposed Future Land Uses and Zoning

Future Land Use Map Designation

Current: Residential Medium (RM)
Proposed: Recreation (R)

Land Use (Zoning) District Designation

Existing: Residential Medium (RM)
Proposed: Parks and Recreation (PR)

Use of Properties

Existing: Vacant
Proposed: Park

Surrounding FLUM, Zoning and Uses

The property subject vacant parcel is located on Calle Ensenada and consists of one parcel. The property is located in an area that is residential.

Adjacent land use is single family residential. Surrounding zoning is Residential Medium to the South, Residential Medium to the North, and Residential Medium to the East and West. The following table correlates existing uses with the existing FLUM, zoning and uses.

	<u><i>Existing FLUM</i></u>	<u><i>Existing Zoning</i></u>	<u><i>Existing Uses</i></u>
North	Residential Medium	Residential Medium	Single family residential
East	Residential Medium	Residential Medium	Single family residential
South	Residential Medium	Residential Medium	Single family residential
West	Residential Medium	Residential Medium	Single family residential

Existing Habitat

The property is listed as in the Species Focus Area for Eastern Indigo Snake as Undeveloped land. The parcel is NOT within the Florida Forever boundaries.

FEMA

The property is within the AE 7 flood zones.

DEVELOPMENT ANALYSIS:

Current FLUM: Residential Medium (RM)

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 parcels with disturbed or scarified vegetation and areas that are appropriate for infill development ant that are served by existing infrastructure.”

Residential Medium Allowable Density

Market Rate – 5 Units per acre

Affordable – 10 units per acre

Transient – 0

Maximum Intensity (FAR) - 0

Minimum Open Space Ratio 20%

Proposed FLUM: Recreation

Policy 1-3.1.4 Recreation of the Comprehensive Plan states “the principal purpose of the Recreation future land use category is to provide for public and private, activity-based, and resource-based parks and recreation facilities. Residential caretaker uses are also permitted.”

Recreation Allowable Density

Market Rate – 0.25 per acre

Affordable – 0.25 units per acre

Transient – 5-15 units per acre

Maximum Intensity (FAR) – 0.15-0.50

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:

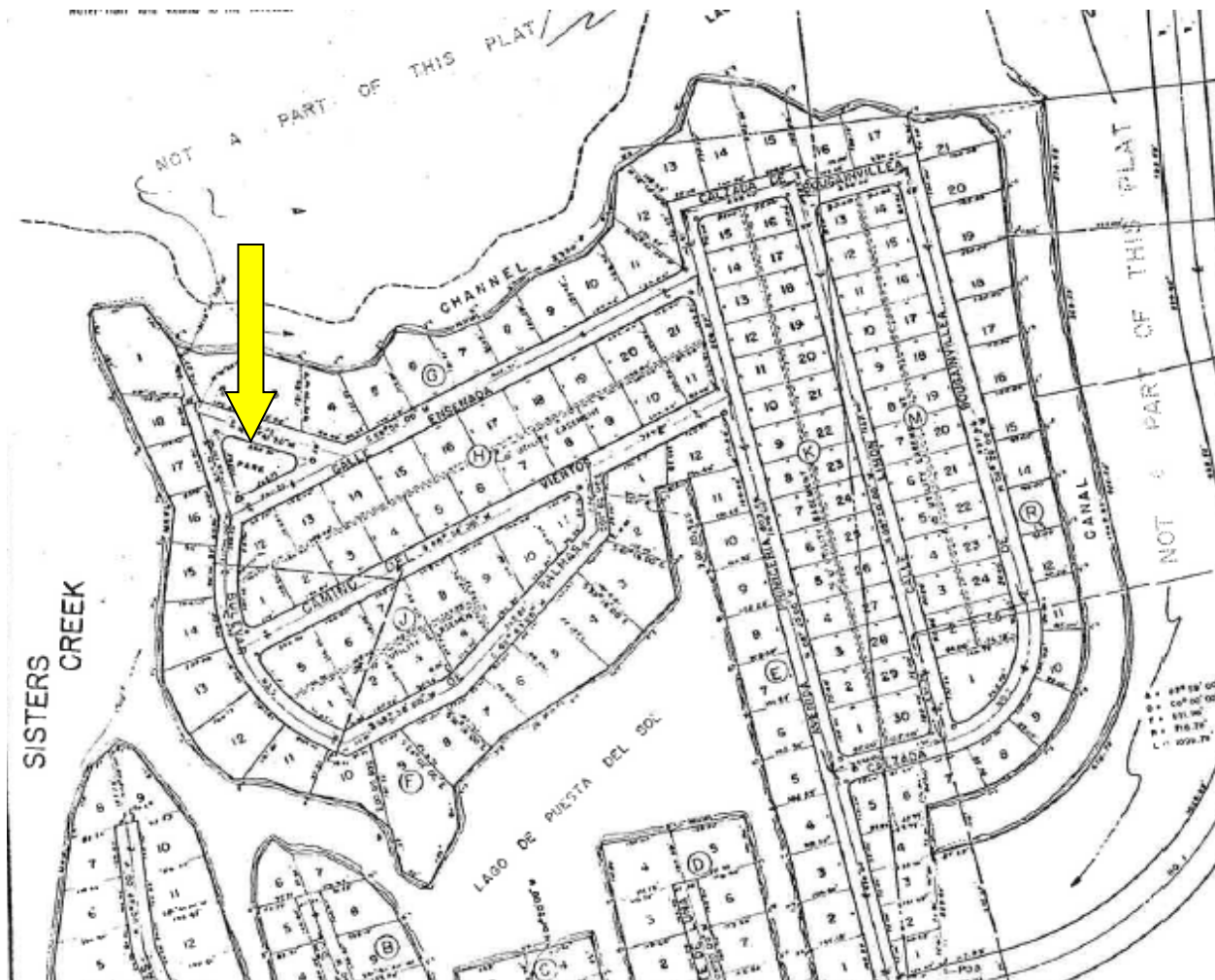
- Natural Resource Protection
 - Wetlands
 - Estuaries
 - Living marine resources
 - Beaches / Dunes
 - Unique wildlife habitat
 - Water Quality
 - Stormwater
 - Potable Water
 - Solid Waste
 - Transportation
- Historical Resources
- Infrastructure / Concurrency Management
 - Wastewater
- Affordable 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

This property consists of one parcel which was listed as park in the plat of the subdivision.



All other parcels in this area are designated Residential Medium (RM) (FLUM) and zoned Residential Medium (RM). This parcel was created in the nexus of three adjoining rights of way, and designated specifically in the plat to be a park. The proposed Re-FLUM and re-Zoning converts the parcel to Recreation (R) (FLUM) and Parks and Recreation (Zoning).

The proposed FLUM and Zoning amendments *are 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 *i compliance* with this criterion.

Natural Resources

The area proposed for a FLUM change is listed as developed land in the Species Focus Area for the Eastern Indigo Snake. The parcel is NOT within the Florida Forever boundaries, which is land that has been identified as critical areas suitable for acquisition by federal, state, or local agencies.

The proposed FLUM and Zoning amendments *are 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 8 times increase in density.

The proposed FLUM and Zoning changes will have no 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 no impact on land acquisition efforts. The proposed FLUM and Zoning amendments *are therefore consistent* with these provisions of the Comprehensive Plan and Chapters 16 and 380 F.S.

SUMMARY:

The Applicant requests a change in the FLUM and Zoning Map designations for the property located on Calle Ensenada. Currently the property is zoned as Residential Medium (RM) with FLUM designation of Residential Medium (RM).

The applicant is requesting a change to Recreation (R) for the FLUM map and Parks and Recreation (PR) 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 Recreation (FLUM) and Parks and Recreation (PR) (Zoning).

Staff finds the proposed FLUM change and rezoning are 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.

Sponsored By: Garrett
Planning Commission Public Hearing Date: July 18, 2022
City Council Public Hearing Dates: August 9, 2022
TBD
Enactment Date: TBD

**CITY OF MARATHON, FLORIDA
ORDINANCE 2022-**

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA AMENDING THE FUTURE LAND USE MAP (FLUM) FROM RESIDENTIAL MEDIUM (RM) TO RECREATION (R) FOR PROPERTY DESCRIBED AS WALORISS SUB PB3-113 (PARK), HAVING REAL ESTATE NUMBER 00354681-000000; 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.

WHEREAS, pursuant to the provisions of Chapters, 163, 166 and 380 Florida Statutes, the City of Marathon, Florida (the "City") proposes to amend the City's Future Land Use Map (the "Map") to change the land use district designation of property owned by the City of Marathon, from Residential Medium (RM) to Recreation (R); and

WHEREAS, amending the Map designation of the Property furthers the goals, objectives, and policies of the City Comprehensive Plan (the "Plan"); and

WHEREAS, pursuant to Chapter 163, *Florida Statutes*, and Sections 101.02 and 102.22 of the Code, the Planning Commission sitting as the Local Planning Agency publicly considered the proposed FLUM Map amendment on July 18, 2022, at a duly noticed public hearing, and has recommended approval of the proposed FLUM Map amendment to the City Council; and

WHEREAS, pursuant to the same legislative provision, the City Council considered the recommendation of the Planning Commission, accepted public input, and deliberated on the proposed Map amendment on August 9th, 2022 and **XXX** at a duly noticed public hearing, and recommended that the amendment be transmitted to the Florida Department of Economic Opportunity (DEO) for review; and

WHEREAS, in accordance with Section 166.041, *Florida Statutes*, notice of the public hearings concerning the proposed Map amendment has been provided to the general public; and

WHEREAS, the City Council finds that approval of the proposed Map amendment is in the best interest of the City and complies with applicable laws and is consistent with the South

Florida Regional Plan, the State Plan, Chapter 163, *Florida Statutes*, the principles for guiding development in the Florida Keys Area of Critical State Concern, the goals, objectives, and policies of the Plan, Chapter 102, Article 6 of the Code, and promotes and protects the health, safety and welfare of the residents of the City; and

WHEREAS, the City Council desires to approve the proposed Map amendment, in accordance with State law.

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

SECTION 1. The above recitals are true, correct, and incorporated herein by this reference.

SECTION 2. The proposed FLUM Map designation change of the Property is approved in its first reading from its current designation of Residential Medium (RM) to Recreation (R) (See Attachment "A").

SECTION 3. The City Council directs staff to transmit the revised Map reflecting the Map amendment, and all data and analysis supporting the Map amendment, to the Department of Economic Opportunity, in its capacity as the State Land Planning Agency, as required by Chapters 163 and 380, *Florida Statutes*.

SECTION 4. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 5. The effective date of this FLUM Amendment, if the amendment is not timely challenged, shall be the date the state land planning agency posts a notice of intent determining that this amendment is in compliance. If timely challenged, or if the state land planning agency issues a notice of intent determining that this amendment is not in compliance, this amendment shall become effective on the date the state land planning agency, or the Administration Commission enters a final order determining this adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the State Land Planning Agency.

ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS X DAY OF X, 2022.

THE CITY OF MARATHON, FLORIDA

John Bartus, Mayor

NOES:
ABSENT:
ABSTAIN:

ATTEST:

Diane Clavier, City Clerk

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

Steve Williams, City Attorney

DRAFT

Sponsored By: Garrett
Planning Commission Public Hearing Date: July 18, 2022
City Council Public Hearing Dates: X, 2022
TBD
Enactment Date: TBD

CITY OF MARATHON, FLORIDA
ORDINANCE 2022-XXX

AN ORDINANCE OF THE CITY OF MARATHON FLORIDA AMENDING THE ZONING FROM RESIDENTIAL MEDIUM (RM) TO PARKS AND RECREATION (PR) FOR PROPERTY DESCRIBED AS WALORISS SUB PB3-113 (PARK), HAVING REAL ESTATE NUMBER 00354681-000000; 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.

WHEREAS, pursuant to the provisions of Chapters, 163, 166 and 380 Florida Statutes, the City of Marathon, Florida (the "City") proposes to amend the City's Zoning Map (the "Map") to change the land use district designation of property owned by the City of Marathon, from Residential Medium (RM) to Parks and Recreation (PR); and

WHEREAS, amending the Zoning Map designation of the Property furthers the goals, objectives, and policies of the City Comprehensive Plan (the "Plan"); and

WHEREAS, pursuant to Chapter 163, *Florida Statutes*, and Sections 101.02 and 102.22 of the Code, the Planning Commission sitting as the Local Planning Agency publicly considered the proposed Zoning Map amendment on July 18, 2022, at a duly noticed public hearing, and has recommended approval of the proposed Map amendment to the City Council; and

WHEREAS, pursuant to the same legislative provision, the City Council considered the recommendation of the Planning Commission, accepted public input, and deliberated on the proposed Map amendment on July 18th 2022 and again on **XXX** at a duly noticed public hearing, and recommended that the amendment be transmitted to the Florida Department of Economic Opportunity (DEO) for review and final approval; and

WHEREAS, in accordance with Section 166.041, *Florida Statutes*, notice of the public hearings concerning the proposed Map amendment has been provided to the general public; and

WHEREAS, the City Council finds that approval of the proposed Zoning Map amendment is in the best interest of the City and complies with applicable laws and is consistent with the South Florida Regional Plan, the State Plan, Chapter 163, *Florida Statutes*, the principles for guiding development in the Florida Keys Area of Critical State Concern, the goals, objectives, and policies

of the Plan, Chapter 102, Article 6 of the Code, and promotes and protects the health, safety and welfare of the residents of the City; and

WHEREAS, the City Council desires to approve the proposed Map amendment, in accordance with State law.

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

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

Section 2. In accordance with State law, the City of Marathon Comprehensive Plan, the Zoning Map designation of the Properties are amended from their current designation of Residential Medium (RM) to Parks and Recreation (PR) See Attachment "A."

Section 3. The City shall timely transmit the revised Zoning Map reflecting the Map amendment, and all data and analysis supporting the Map amendment, to the State of Florida Department of Economic Opportunity, in its capacity as the State Land Planning Agency (the "Department"), as required by Chapters 163 and 380, *Florida Statutes*.

Section 4. That upon its effective date, the revised Map shall replace the City's Zoning Map, previously applicable to the City pursuant to Sections 163.3167(4), 380.05(10) and 380.0552(9), *Florida Statutes*, and Section 9(6) of the City Charter to the fullest extent allowed by law.

Section 5. The provisions of this Ordinance constitute a "land development regulation" as State law defines that term. Accordingly, the City Clerk is authorized to forward a copy of this Ordinance to the Department for approval pursuant to Sections 380.05(6) and (11), *Florida Statutes*.

Section 6. That this Ordinance shall be effective immediately upon approval by the Department pursuant to Chapter 380, *Florida Statutes*.

ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, this X day of X, 2022.

THE CITY OF MARATHON, FLORIDA

John Bartus, Mayor

AYES:

NOES:

ABSENT:
ABSTAIN:

ATTEST:

Diane Clavier
City Clerk

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

Steve Williams
City Attorney

DRAFT



PLANNING COMMISSION AGENDA STATEMENT

Meeting Date: June 17, 2022
To: Planning Commission
From: Brian Shea, Planning Director

Agenda Item: An Ordinance Of The City Council Of The City Of Marathon, Florida, Amending Chapter 102 “Development Application Review Procedures”, Article 6 “Comprehensive Plan Amendment”, Amending Figure 102.22.1 “Comprehensive Plan Amendment Review Process”, And Article 7 “Land Development Text Amendment”, Amending Figure 102..28.1 “Land Development Regulation Text Amendment Process”, And Article 11 “Rezoning”, Amending Figure 102.62.1 “Rezoning Review Process”, And Article 13 “Conditional Use”, Amending Figure 102.80.1 “Conditional Use Permit Review Process”, And Article 17 “Appeals”, Amending Figure 102.98.1 “Appeals Review Process”, And Article 18 “Beneficial Use Determinations”, Amending Figure 102.104.1 “Beneficial Use Determinations Process”, And Article 19 “Vested Rights Determinations”, Amending Figure 102.112.1 “Vested Rights Determinations”, And Article 18 “Beneficial Use Determinations”, Amending Section 102.104 “Final Determination By Council”, And Article 19 “Vested Rights Determinations”, Amending Section 102.110 “Final Determination”; And Amending Chapter 110 “Definitions”, Article 2 “Acronyms”; To Update Language Pertaining To The Obsolete Department Of Community Affairs (DCA) To Reflect The Current Department Of Economic Opportunity (DEO); Providing For The Repeal Of All Code Provisions And Ordinances Inconsistent With This Ordinance; Providing For Severability; Providing For Inclusion In The Code; 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 Department Of Economic Opportunity In Accordance With State Law.

RECOMMENDATION:

Staff recommends APPROVAL

BACKGROUND:

APPLICANT: City of Marathon

REQUEST:

The draft ordinance has been proposed to modify language in Chapters 102 & 110, of the City of Marathon Land Development Regulations, as they pertain to the Department of Community Affairs to now reflect the current Department of Economic Opportunity.

Purpose of Proposed Amendment:

The purpose of the amendment is to remove references to DCA in the flow charts and code sections to reflect the change to DEO.

AUTHORITY

Section 102.26. Planning Commission Recommendation.

A. *Authority:* The PC shall consider a proposed text amendment at the request of the Council.

B. *Review Criteria:* The PC shall review such proposed amendment, based upon the criteria listed below:

- 1. The need and justification for the change;
- 2. The consistency of the proposed amendment with the Comprehensive Plan; and
- 3. Whether the proposed change shall further the purposes of the LDRs, and other City Codes, regulations and actions designed to implement the Comprehensive Plan.

C. *Findings:* The PC shall make a finding of whether the proposed amendment is consistent with the Comprehensive Plan and a recommendation shall be prepared and forwarded to the Council, indicating if the proposed amendment should be:

- 1. Approved as proposed;
- 2. Approved with amendments proposed by the PC; or
- 3. Denied

Section 102.27. - Hearing(s) by Council.

- A. The decision to process a text amendment is within the sole discretion of the Council.
- B. For any proposed text amendment, the Council shall hold a minimum of two (2) public hearings, conforming to the requirements of Fla. Stat. Ch. 166, before taking action on the amendment.

Section 102.28. - Action by Council.

Following the public hearings, the Council shall make a finding of whether the proposed text amendment is consistent with the Comprehensive Plan and may approve, approve with changes, or deny the proposed amendment.

As noted, review of proposed LDR text amendments is to be made based on three basic criteria: need and justification for change, consistency with the adopted Comprehensive Plan, and whether the proposed amendment will further the purposes of the LDRs, other ordinances, and actions taken to further the implementation of the Comprehensive Plan. The Planning Commission, in reviewing the proposed amendment, may recommend approval as is, approval with changes, or denial to the City Council.

ANALYSIS OF LAND DEVELOPMENT REGULATION TEXT AMENDMENTS:

Section 102.26(B) of the Land Development Regulations requires that the following standards and criteria be considered for any proposed text amendment. Each criterion and explanation of relevance to this proposed amendment are listed below:

A. The need and justification for the change;

Chapter 2011-142, L.O.F. (the law), reorganized the land planning and community development, workforce development, and economic development functions of Florida’s government into one

state agency. This created the Department of Economic Opportunity, and the division of Community Development. The Division of Community Development includes former DCA responsibilities and functions. Generally, the division assists local governments and communities in planning functions and administers state and federal community development and project planning grant programs.

B. The consistency of the proposed amendment with the Comprehensive Plan; and

The 2013 EAR amendments to the Comprehensive Plan included the references and changes from DCA to DEO. This LDR amendment is therefore consistent with those changes.

C. Whether the proposed change shall further the purposes of the LDRs, and other City Codes, regulations and actions designed to implement the Comprehensive Plan.

The proposed text amendments furthers the purposes of the LDRs and other City Codes, regulations and actions designed to implement the Comprehensive Plan by offering a clear, concise, and accurate definition and flow charts.

CONCLUSION:

Staff indicates that the proposed text amendments are consistent with the standards and tenants of Chapter 163 and 380 F.S., and the City's Comprehensive Plan adopted under the requirements of these statutes and rules.

RECOMMENDATION:

Staff recommends APPROVAL

Sponsored by: Garrett
Introduction Date: XXX, 2022
Public Hearing Dates: XXX, 2022
City Council Hearing Date: XXX, 2022
Enactment Date: XXXX

**CITY OF MARATHON, FLORIDA
ORDINANCE 2022-XX**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AMENDING CHAPTER 102 “DEVELOPMENT APPLICATION REVIEW PROCEDURES”, ARTICLE 6 “COMPREHENSIVE PLAN AMENDMENT”, AMENDING FIGURE 102.22.1 “COMPREHENSIVE PLAN AMENDMENT REVIEW PROCESS”, AND ARTICLE 7 “LAND DEVELOPMENT TEXT AMENDMENT”, AMENDING FIGURE 102..28.1 “LAND DEVELOPMENT REGULATION TEXT AMENDMENT PROCESS”, AND ARTICLE 11 “REZONING”, AMENDING FIGURE 102.62.1 “REZONING REVIEW PROCESS”, AND ARTICLE 13 “CONDITIONAL USE”, AMENDING FIGURE 102.80.1 “CONDITIONAL USE PERMIT REVIEW PROCESS”, AND ARTICLE 17 “APPEALS”, AMENDING FIGURE 102.98.1 “APPEALS REVIEW PROCESS”, AND ARTICLE 18 “BENEFICIAL USE DETERMINATIONS”, AMENDING FIGURE 102.104.1 “BENEFICIAL USE DETERMINATIONS PROCESS”, AND ARTICLE 19 “VESTED RIGHTS DETERMINATIONS”, AMENDING FIGURE 102.112.1 “VESTED RIGHTS DETERMINATIONS”, AND ARTICLE 18 “BENEFICIAL USE DETERMINATIONS”, AMENDING SECTION 102.104 “FINAL DETERMINATION BY COUNCIL”, AND ARTICLE 19 “VESTED RIGHTS DETERMINATIONS”, AMENDING SECTION 102.110 “FINAL DETERMINATION”; AND AMENDING CHAPTER 110 “DEFINITIONS”, ARTICLE 2 “ACRONYMS”; TO UPDATE LANGUAGE PERTAINING TO THE OBSOLETE DEPARTMENT OF COMMUNITY AFFAIRS (DCA) TO REFLECT THE CURRENT DEPARTMENT OF ECONOMIC OPPORTUNITY (DEO); PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; 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 DEPARTMENT OF ECONOMIC OPPORTUNITY IN ACCORDANCE WITH STATE LAW.

WHEREAS, the City Council (the “Council”) enacted its Comprehensive Plan on July 5, 2005, and its Land Development Regulations (LDRs) on November 7, 2007; and

WHEREAS, the Local Government Comprehensive Planning and Land Development Regulation Act, Chapter 163, Florida Statutes, provides for comprehensive plan implementation through the enactment of certain ordinances; and

WHEREAS, it is the desire of the City of Marathon City Council to amend its current LDRs to reflect the change from DCA to DEO; and

WHEREAS, pursuant to Section 163.3174 and 166.041, *Florida Statutes*, and Section 102, Article 7 of the Marathon Code, the City’s Planning Commission sitting as the Local Planning Agency on XXX 2022 publicly considered the amendments to Land Development Regulations set forth in this Ordinance (the “Amendment”) at a properly noticed public hearing and recommended to the City Council the adoption of the Amendment; and

WHEREAS, the City Council publicly considered the amendments to Land Development Regulations set forth in this Ordinance (the “Amendment”) at a properly noticed public hearing and finds the adoption of the Amendment, in the form attached hereto, is in the best interest of the City and complies with applicable State laws and rules

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA:

Section 1. Recitals. The foregoing “WHEREAS” clauses are ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

Section 2. Code Amendment. The Code of the City of Marathon, Florida is hereby amended as Exhibit A attached.

Section 3. Conflict. The Provisions of the Code of Ordinances, City of Marathon, Florida and all Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 4. Severability. The provisions of this Ordinance are declared to be severable, and if any sentence, section, clause or phrase of this Ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sentences, sections, clauses or phrases of the Ordinance, but they shall remain in effect it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Inclusion in the Code of Ordinances. It is the intention of the City Council, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the City of Marathon Code of Ordinances, that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and the word “ordinance” may be changed to “Section” or other appropriate word.

Section 6. Land Development Regulations. The provisions of this Ordinance constitute a “land development regulation” as state law defines that term. Accordingly, the City Clerk is authorized and directed to forward a copy of this Ordinance to the State Department of Economic Opportunity for approval pursuant to Sections 380.05(6) and (11), Florida Statutes.

Section 7. Effective Date. This Ordinance shall be effective immediately upon approval by the State Department of Community Affairs pursuant to Chapter 380, Florida Statutes.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS XXth DAY OF XXX 2022.

THE CITY OF MARATHON, FLORIDA

John Bartus, Mayor

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

Diane Clavier, City Clerk

(City Seal)

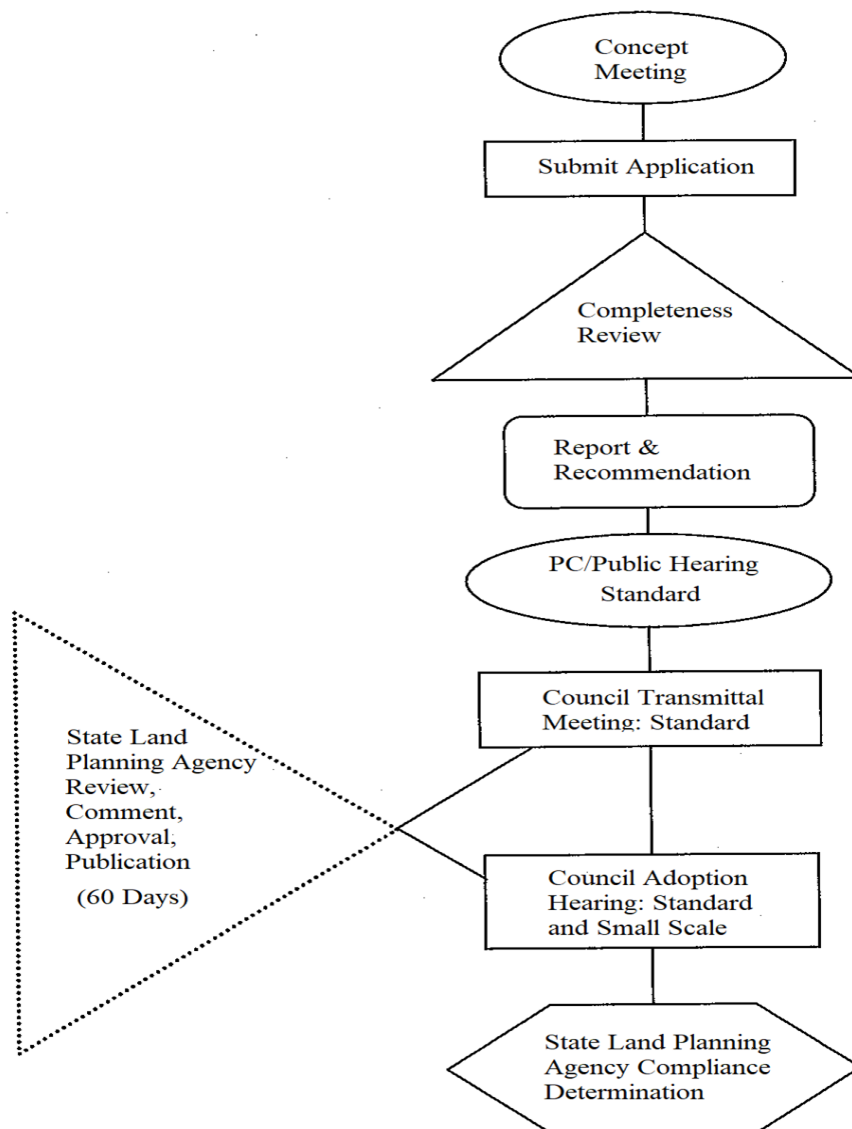
**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:**

Steven Williams, City Attorney

Section 102.22. Review of Applications.

- A. *Planning Commission Review:* The PC shall review and consider all applications for standard amendments to the Comprehensive Plan in accordance with Fla. Stat. ch. 163, and shall submit a recommendation, including the proposals' consistency with the Comprehensive Plan, to the Council regarding each application, and may recommend that an application be:
1. Approved;
 2. Approved subject to modifications; or
 3. Denied.

Figure 102.22.1
Comprehensive Plan Amendment Review Process



- B. *Council Review:*

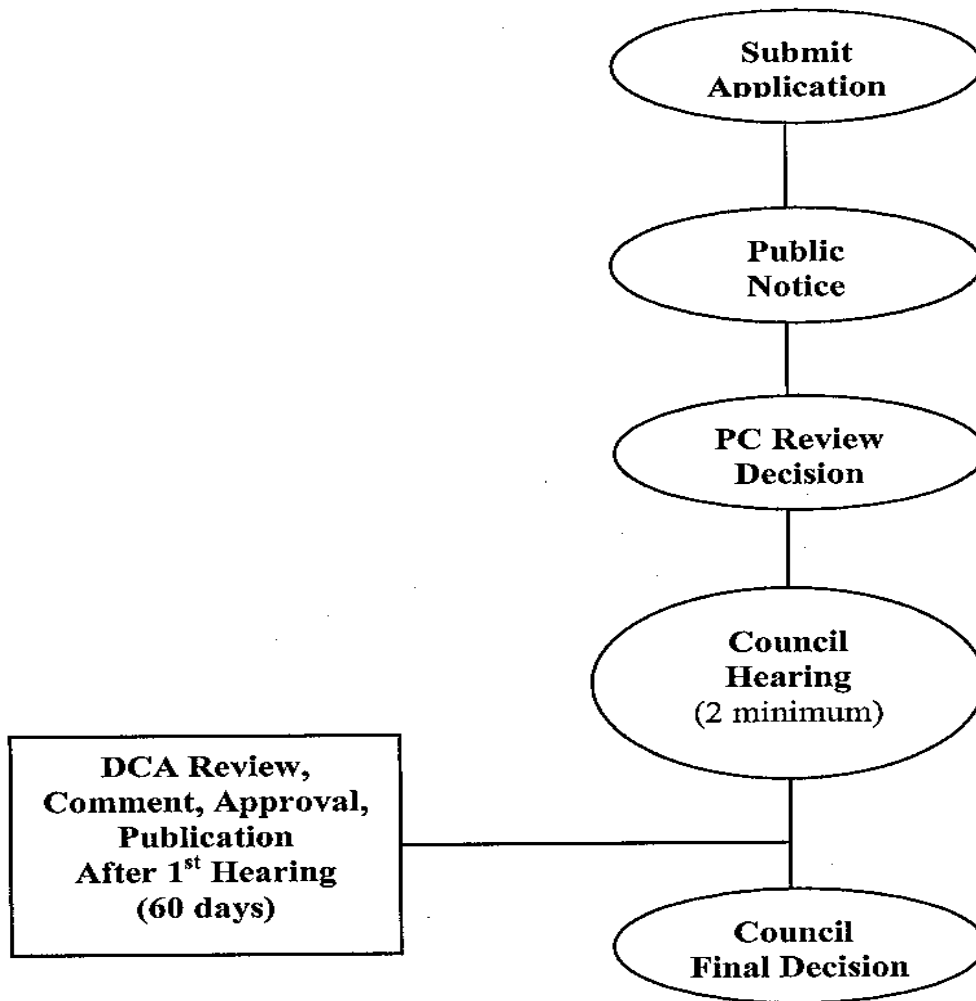
1. *Required Public Hearings for Standard Amendments:* Unless otherwise provided by state law, the Council shall hold two (2) public hearings, as provided below, to consider all Standard Comprehensive Plan amendments.
 - (a) *Transmittal Public Hearing:* A public hearing shall be held prior to transmittal of all proposed Comprehensive Plan amendments to the Stand Land Planning Agency for review. The hearing shall be held on a weekday at least seven (7) days after the day that the first advertisement is published pursuant to the requirements of Fla. Stat. ch. 125 and ch. 166.
 - (b) *Adoption Public Hearing:* A public hearing shall be held after receipt from the State Land Planning Agency with [any] objections, recommendations and comments report on each proposed Comprehensive Plan amendment. The hearing shall be held on a weekday at least five (5) days after the day that the second advertisement is published pursuant to the requirements of Fla. Stat. ch. 125 and ch. 166.
 - i. The public hearing shall be held within 60 days after receipt of the report from the State Land Planning Agency or after notification that no report will be issued. The hearing date shall not be extended beyond 180 days, as failure to hold the hearing within that timeframe will result in the amendment being deemed withdrawn pursuant to Fla. Stat. § 163.3184(4)(e).

(Ord. No. 2021-22 , § 2, 10-12-2021)

Section 102.28. Action by Council.

Following the public hearings, the Council shall make a finding of whether the proposed text amendment is consistent with the Comprehensive Plan and may approve, approve with changes or deny the proposed amendment.

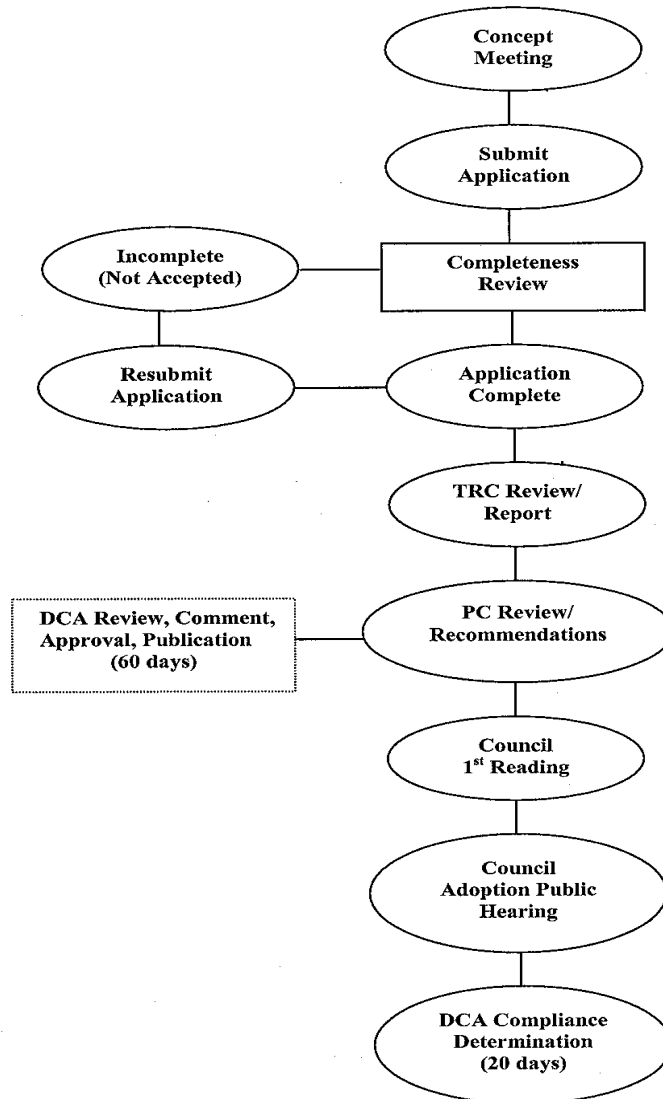
Figure 102.28.1
Land Development Regulation Text Amendments Process



Section 102.62. Review by the Planning Commission.

- A. *Consideration by Planning Commission:* All rezoning applications shall be considered by the PC at a public hearing, prior to public hearing or action by the Council.
- B. *Standards and Criteria:* The PC shall review and make a recommendation to the Council on the proposed rezoning based on the standards in Section 102.64, "Review Criteria and Standards for Rezoning Applications".

Figure 102.62.1
Rezoning Review Process



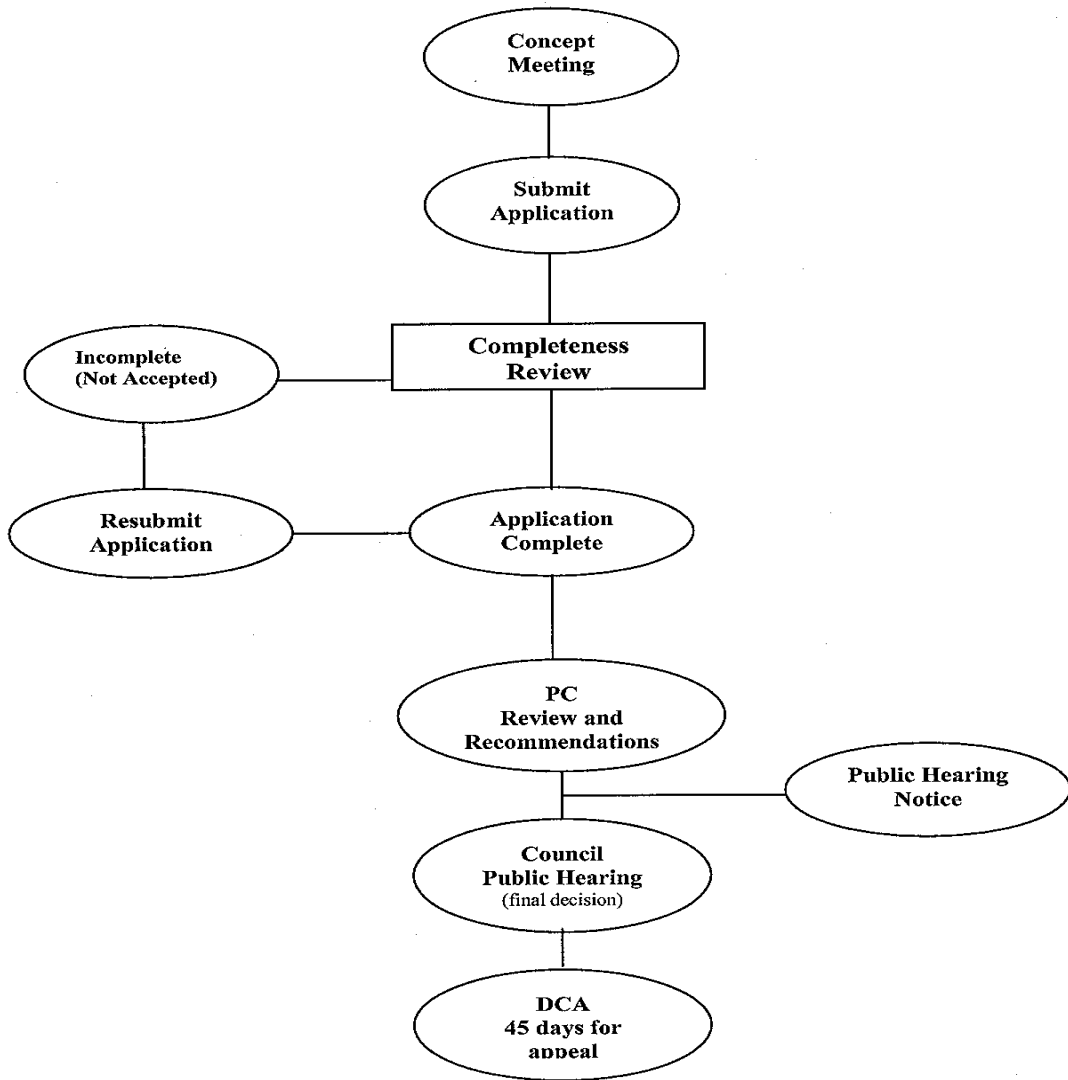
C. *Planning Commission Recommendation:* A recommendation shall be prepared and forwarded to the Council. The recommendation shall indicate if the proposed rezoning should be:

1. Approved;
2. Approved with conditions, where conditions may be attached to the proposed rezoning;
3. Denied.

Section 102.80. Appeal.

The applicant and any aggrieved person may appeal the decision of the Council by filing a petition for a writ of certiorari in the Circuit Court in and for Monroe County, in accordance with the procedure provided by the Florida Rules of Civil Procedure and the Florida Rules of Appellate Procedure. The alleged adverse interest may be shared in common with others members of the community at large, but shall exceed in degree the general interest in community good shared by all persons.

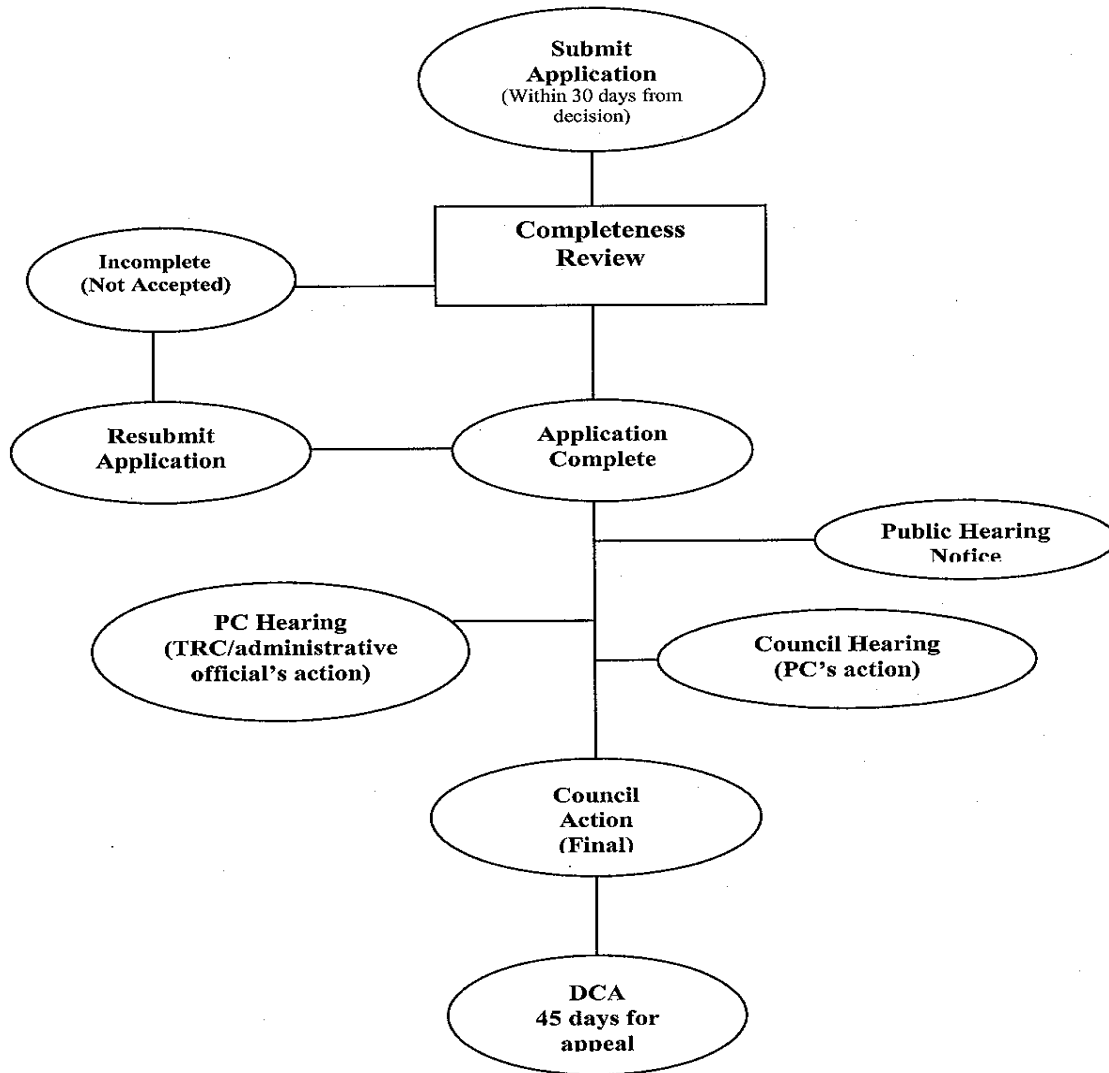
Figure 102.80.1
Conditional Use Permit Review Process



Section 102.98. Effective Date.

The decision of the Council and PC on an appeal shall be effective immediately.

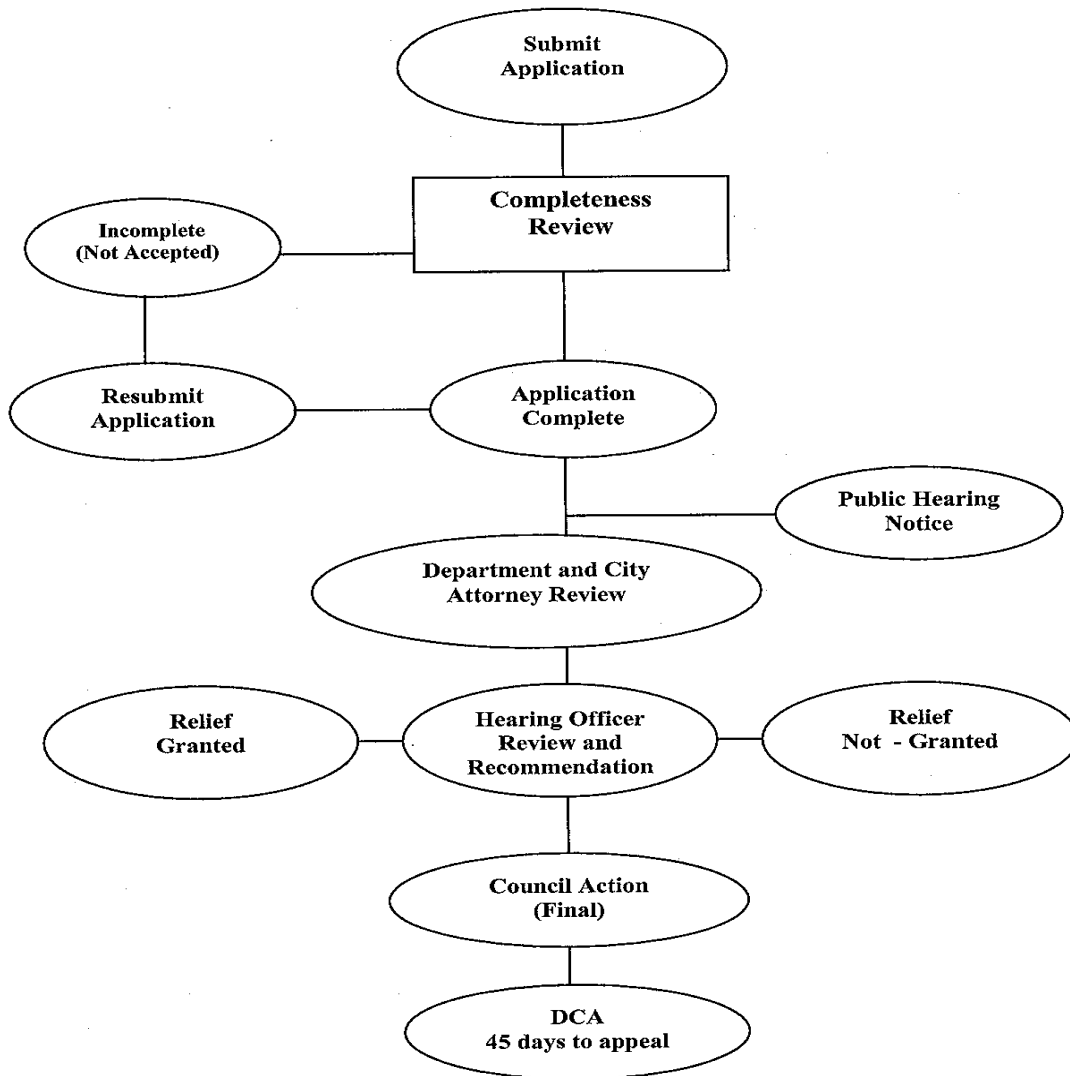
Figure 102.98.1
Appeals Review Process



Section 102.104. Final Determination by Council.

The Council is the only entity which has final authority to grant or deny beneficial uses subject to appeal by ~~DCA-DEO~~ under Chapter 380. In approving, denying or modifying an order from a Hearing Officer granting or denying an applicant beneficial use, the Council will ensure that the Hearing Officer has conducted the evidentiary hearing in a manner that is consistent with this article and the Comprehensive Plan. The Council will approve or reject the Hearing Officer's determination during a public hearing. The public shall be given the opportunity to be heard and make arguments for or against the determination during the Council's public hearing.

Figure 102.104.1
Beneficial Use Determinations Process



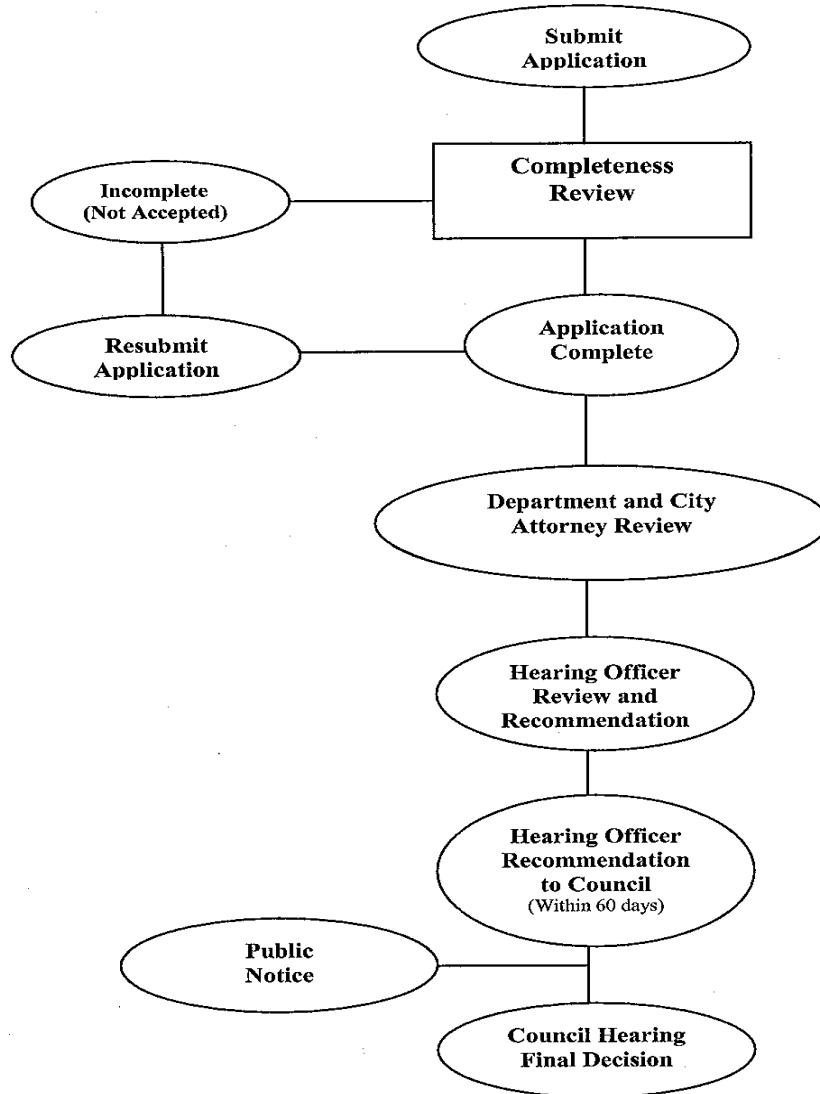
Section 102.110. Final Determination.

The Council may adopt, reject or modify the Hearing Officer's determination, subject to appeal by DCA DEO under Fla. Stat. ch. 380.

Section 102.112. Waiver of Time Limits.

Any time limits herein may be waived upon receipt by the Department of a written stipulation requesting such waiver and signed by the applicant and the Director.

Figure 102.112.01
Vested Rights Determinations



ARTICLE 2. ACRONYMS

A: Airport Zoning District

AASHTO: American Association of State Highway and Transportation Officials

ACOE: Army Corps of Engineers

ADT: Average Daily Traffic

BPAS: Building Permit Allocation System

CLSC: Certificate of Level of Service

C-NA: Conservation-Native Area Zoning District

C-OI: Conservation -Offshore Island Zoning District

DCA: Florida Department of Community Affairs
DEO: Department of Economic Opportunity
FAA: Federal Aviation Administrator
FDEP: Florida Department of Environmental Protection
FDOT: Florida Department of Transportation
FEMA: Federal Emergency Management Agency
FKAA: Florida Keys Aqueduct Authority
FKEC: Florida Keys Electric Cooperative
FLUM: Future Land Use Map
FWCC: Florida Fish & Wildlife Conservation Commission
GIS: Geographic Information System
HUD: US Department of Housing and Urban Development
I-G: Industrial-General
I-M: Industrial-Maritime
KEYWEP: Keys Wetland Evaluation Procedure
LDRs: Land Development Regulations
LOS: Level of Service
MHWL: Mean High Water Line
MLW: Mean Low Water
MU: Mixed-use
MUC: Mixed-use Commercial
MUD: Mixed-use Development
MU-M: Mixed-use Maritime
NPDES: National Pollutant Discharge Elimination System
P: Public Zoning District
PC: Planning Commission
PR: Parks and Recreation Zoning District
RH: Residential High Zoning District
RL: Residential Low Zoning District
RL-C: Residential Low-Conservation
RM: Residential Medium Zoning District
RM-1: Residential Medium-1 Zoning District (Coco Plum Subdivision)
RM-2: Residential Medium-2 Zoning District (Coco Plum Subdivision)
R-MH: Residential-Mobile Home Zoning District
RV: Recreational Vehicle

SFWMD: South Florida Water Management District

SWPPP: Stormwater Pollution Prevention Plan

TBR: Transfer of Building Right

TDR: Transfer of Development Right

TRC: Technical Review Committee

UMAM: Uniform Mitigation Assessment Method

VPH: Vehicles per hour