



City of Marathon Planning Commission
Monday April 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 general 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. An Ordinance Of The City Of Marathon, Florida Amending The Future Land Use Map (FLUM) From Mixed Use Commercial (MU-C) To Industrial (I-G) For Property Described As Bk 1, E ½ Of Lot 4 Stirrup Key Bight PB3-168 Key Vacas, Marathon, Monroe County, Florida, Having Real Estate Number 00333450-000100; 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.

2. An Ordinance Of The City Of Marathon Florida Amending The Zoning From Mixed Use (MU) To Industrial (I-G) For Property Described As Bk 1, E ½ Of Lot 4 Stirrup Key Bight PB3-168 Key Vacas, Marathon, Monroe Co., Florida, Having Real Estate Number 00333450-000100; 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 Future Land Use Map (FLUM) From Residential Medium (RM) To Mixed Use (MU-C) For Property Described As Bk 3 Lot 6 Key Colony Subdivision 4 PB4-23, Key Vaca, Marathon, Monroe County, Florida, Having Real Estate Number 00335170-000000; 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 Of Marathon, Florida Amending The Zoning From Residential Medium (RM) To Mixed Use (MU) For Property Described As Bk 3 Lot 6 Key Colony Subdivision 4 PB4-23, Key Vaca, Marathon, Monroe County, Florida, Having Real Estate Number 00335170-000000; 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.

5. An Ordinance Of The City Of Marathon, Florida, Amending The City Of Marathon's Comprehensive Plan Modifying Chapter Four, "Conservation And Coastal Element," And Intending To Modify Policy 4-1.4.2, "Maintain A 50 Foot Buffer Adjacent To Wetlands," Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity After The First Hearing By The City Council; And Providing For An Effective Date.

6. An Ordinance Of The City Of Marathon, Florida, Amending Chapter 106 "Natural And Historic Resources Protection", Article 4 "Open Water, Surface Waters And Wetlands", Updating Table 106.28.1 "Water Resource And Wetland Buffers"; Providing For The Repeal Of All Code Provisions And Ordinances Inconsistent With This Ordinance; Providing For Severability; Providing For Inclusion In The Code Of Ordinances, City Of Marathon, Florida; And Providing An Effective Date.

7. An Ordinance Of The City Of Marathon, Florida, Amending Chapter 103 "Zoning Districts", Article 3 "Use And Intensity Tables", Updating Table 103.15.1 "Uses By Zoning District", Updating Table 103.15.2 "Density, Intensity And Dimensions For Zoning Districts"; Providing For The Repeal Of All Code Provisions And Ordinances Inconsistent With This Ordinance; Providing For Severability; Providing For Inclusion In The Code Of Ordinances, City Of Marathon, Florida; And Providing An Effective Date.

8. An Ordinance Of The City Council Of The City Of Marathon, Florida, Amending Chapter 102 "Development Application Review Procedures", Article 17 "Appeals", Amending Section 102.92 "Appeal Period" And Section 102.93 "Applicability" To Address Timeframes, Of The City Of Marathon Land Development Regulations; 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.

9. An Ordinance Of The City Council Of The City Of Marathon, Florida, Amending Chapter 104 “Specific Use Regulations”, Article 1 “General Provisions”, Amending Section 104.52 “Small Animal Shelter Or Animal Day Care”, Of The City Of Marathon Land Development Regulations; 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 March 21, 2022
9805 Overseas Hwy
City Hall Council Chambers**

MINUTES

Landry called the meeting of the Planning Commission to order on Monday, March 21, 2022, at 5:30 pm.

In attendance: Planning Director Brian Shea and Planner Erin Dafoe.

The Pledge of Allegiance was recited.

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

The minutes of the last meeting need to be revised to reflect Sexton was present.

The quasi-judicial statement was read into the record.

The speakers were sworn in.

Items 1 and 2 were read into the record.

1. An Ordinance Of The City Of Marathon, Florida Amending The Future Land Use Map (FLUM) From Residential Medium (RM) To Mixed Use-Commercial (MU-C) For The Property Described As Block 2, Lot 2 First Addition to Seacrest, Key Vaca Marathon, Monroe County, Florida, Having Real Estate Number 00339240-000000; 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.

2. An Ordinance Of The City Of Marathon, Florida Amending The Zoning Designation From Residential Medium (RM) To Mixed Use (MU) For The Property Described As Block 2, Lot 2 First Addition to Seacrest, Key Vaca, Marathon, Monroe County, Florida, Having Real Estate Number 00339240-000000; 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.

Brian Shea presented the items. The items are being brought forward again due to noticing issues. The property was zoned commercial with the County, the City changed it to residential, and the owner wants to go back to commercial which is consistent with the deed restriction on the property.

Landry opened the meeting to public speakers.

- Karin Ditullio spoke against the development of the property.
- Michael Kossmann spoke for the item, as long as his property has a buffer.

Landry reiterated that the items being heard are for FLUM and Zoning amendments, not the actual development of the property. Certain uses require public hearings.

There was a brief discussion regarding buffers and setbacks required for the zoning change.

Cinque moved to approve item 1. Pinto seconded.

The roll was called. The item was approved 4-0.

Landry moved to approve item 2. Royce seconded.

The roll was called. The item was approved 4-0.

Adjourned at 5:54pm.

ATTEST:

Lynn Landry – Planning Commission Chairman

ATTEST:

Erin Dafoe-Planner
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: April 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 Mixed Use Commercial (MU-C) To Industrial (I-G) For Property Described As Bk 1, E ½ Of Lot 4 Stirrup Key Bight PB3-168 Key Vacas, Marathon, Monroe County, Florida, Having Real Estate Number 00333450-000100; 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 Mixed Use (MU) To Industrial (I-G) For Property Described As Bk 1, E ½ Of Lot 4 Stirrup Key Bight PB3-168 Key Vacas, Marathon, Monroe Co., Florida, Having Real Estate Number 00333450-000100; 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 located on 7th Ave Gulf, nearest Mile Marker 53 and is legally described As Bk 1, E ½ Of Lot 4 Stirrup Key Bight PB3-168 Key Vacas, Marathon, Monroe County, Florida, Having Real Estate Number 00333450-000100

ADDRESS: 10608 7TH Ave, MARATHON

REQUEST: Amend The Future Land Use Map (FLUM) From Mixed Use Commercial (MU-C) To Industrial

- AND-

Amend the Zoning Map for the subject properties from Mixed Use (MU) to Industrial (I-G).

LOT AREA: The aggregated size of the parcels is approximately 0.11 acres (5,000 sq./ft.)

LOCATION MAP

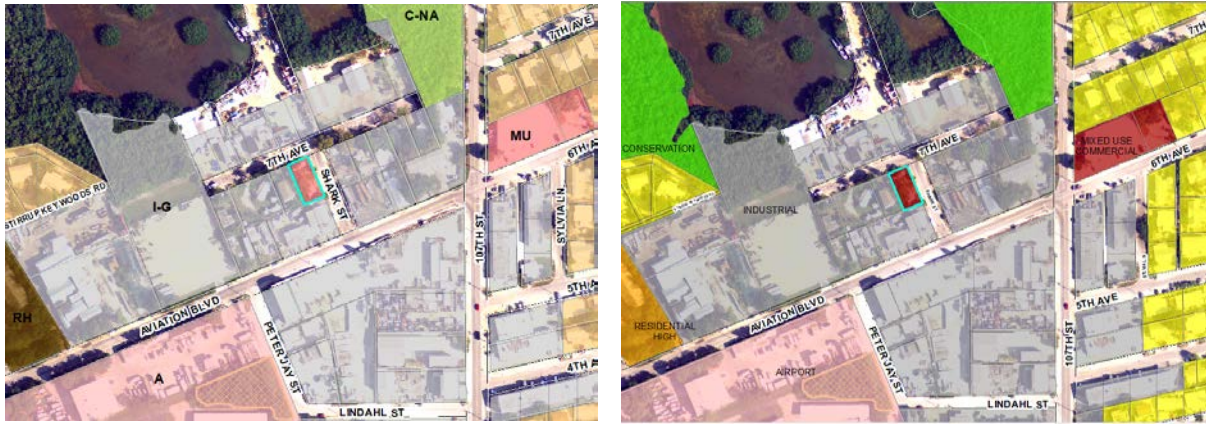


BACKGROUND:

This parcel was zoned as Residential Medium under Monroe County. In 2005, when the City of Marathon adopted the Comprehensive Plan, the parcels were given a Mixed-Use Commercial (MU-C) FLUM designation and were in turn zoned as Mixed Use (MU) when the City adopted the current zoning maps in 2007. The City is requesting the re-designation of the FLUM map to Industrial and subsequent rezoning to make the parcel Industrial (I-G).

Pre 2005 OLD FLUM	Pre 2007 OLD ZONING	2005 CURRENT FLUM	2007 CURRENT ZONING
Urban Residential Mobile Home	Residential Medium	Mixed Use Commercial	Mixed Use

Existing FLUM and Zoning



Current and Proposed Future Land Uses and Zoning

Future Land Use Map Designation

Current: Mixed Use Commercial (MU-C)
 Proposed: Industrial (I-G)

Land Use (Zoning) District Designation

Existing: Mixed Use (MU)
 Proposed: Industrial (I-G)

Use of Properties

Existing: Outdoor storage
 Proposed: Outdoor storage

Surrounding FLUM, Zoning and Uses

The property subject to the FLUM amendment is located on 7th Ave and consists of one parcel. The property is located in an area that is Industrial. Adjacent land use is Industrial to the South, Industrial to the west and Industrial to the East and North. The following table correlates existing uses with the existing FLUM, zoning and uses.

	<u>Existing FLUM</u>	<u>Existing Zoning</u>	<u>Existing Uses</u>
North	Industrial (I-G)	Industrial (I-G)	Lindahl Holding LLC
East	Industrial (I-G)	Industrial (I-G)	All Keys Concrete
South	Industrial (I-G)	Industrial (I-G)	JRC Pro Management Property Enterprises LLC offices
West	Industrial (I-G)	Industrial (I-G)	Affordable housing

Existing Habitat

The existing conditions maps indicate the properties are designated as developed. The property is not listed on the Species Focus Area. 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.

FEMA

The properties are within the AE 7 flood zone.

DEVELOPMENT ANALYSIS:

Current FLUM: Mixed Use Commercial (MU-C)

Policy 1-3.1.4 Mixed Use Commercial of the Comprehensive Plan states “the principal purpose of the Mixed-Use Commercial land use category is to provide for the establishment of Mixed-Use development patterns within the City. This land use category is intended to provide for the commercial zoning district 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.”

Mixed Use Commercial Allowable Density

Market Rate – 2-6 Units per acre

Affordable – 10-15 units per acre

Transient – 10-25 units per acre

Maximum Intensity (FAR) 0.15-0.60

Proposed FLUM: Industrial (I-G)

Policy 1-3.1.4 Industrial of the Comprehensive Plan states “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.”

Industrial Allowable Density

Market Rate – 0 Units per acre

Affordable – 5-10 units per acre

Transient – N/A

Maximum Intensity (FAR) 0.85

Minimum Open Space Ratio 20%

ANALYSIS OF FLUM CHANGE REQUEST:

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

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

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

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

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

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

FL State Statutes

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

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

- Affordable Housing
- Hazard Mitigation
 - CHHA
 - Hurricane Evacuation
- Ports
 - Marina Siting
- Public Use
 - Shoreline use and Access
 - water dependent and independent activity
- Land Acquisition
 - Conservation
 - CHHA
 - Public Services

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

In General

All other parcels in this area are designated Industrial (FLUM) and zoned Industrial (I-G). The proposed Re-FLUM and re-Zoning converts the parcel to Industrial (FLUM) and Industrial (I-G) (Zoning), thus making the entire area FLUM designated and Zoned consistently.

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 *in compliance* with this criterion.

Natural Resources

There is no direct impact. The area proposed for a FLUM change is either already developed or vacant and scarified. It is not within Florida Forever boundaries or critical habitat areas. Direct impacts to natural resources would differ minimally as a result of the proposed FLUM and Zoning changes.

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 Industrial FLUM category decreases potential density to 5-10 units per acre of affordable housing versus the MU allows a potential density of 10-15 in the FLUM category.

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

Hazard Mitigation

- **Coastal High Hazard Areas**

The entirety of the parcel is not within the Coastal High Hazard Area (CHHA).

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 parcels are not 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 at 10608 7TH Ave. Currently the property is designated as Mixed Use (MU) with FLUM designation of Mixed-Use Commercial (MU-C).

The applicant is requesting a change to Industrial (I-G)) for the FLUM map and Industrial (I-G) for the zoning map, which will make the FLUM and Zoning consistent with surrounding FLUM and zoning designations.

RECOMMENDATION:

Staff recommends approval of the proposed FLUM and Zoning changes to Industrial (FLUM) and Industrial (I-G) (Zoning).

Staff finds the proposed FLUM change and rezoning 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 of the proposed FLUM and Zoning changes for this parcel to Industrial (FLUM) and Industrial (I-G) (Zoning).

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: April 18, 2022
City Council Public Hearing Dates: May 10, 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 MIXED USE COMMERCIAL (MU-C) TO INDUSTRIAL (I-G) FOR PROPERTY DESCRIBED AS BK 1, E ½ OF LOT 4 STIRRUP KEY BIGHT PB3-168 KEY VACAS, MARATHON, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00333450-000100; 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 Pro Management Property Enterprises LLC, from Mixed Use-Commercial (MU-C) to Industrial (I); 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 April 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 **XXX** 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 Mixed Us-Commercial (MU-C) (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 XTH DAY OF X 2022.

THE CITY OF MARATHON, FLORIDA

, Mayor

NOES:
ABSENT:
ABSTAIN:

ATTEST:

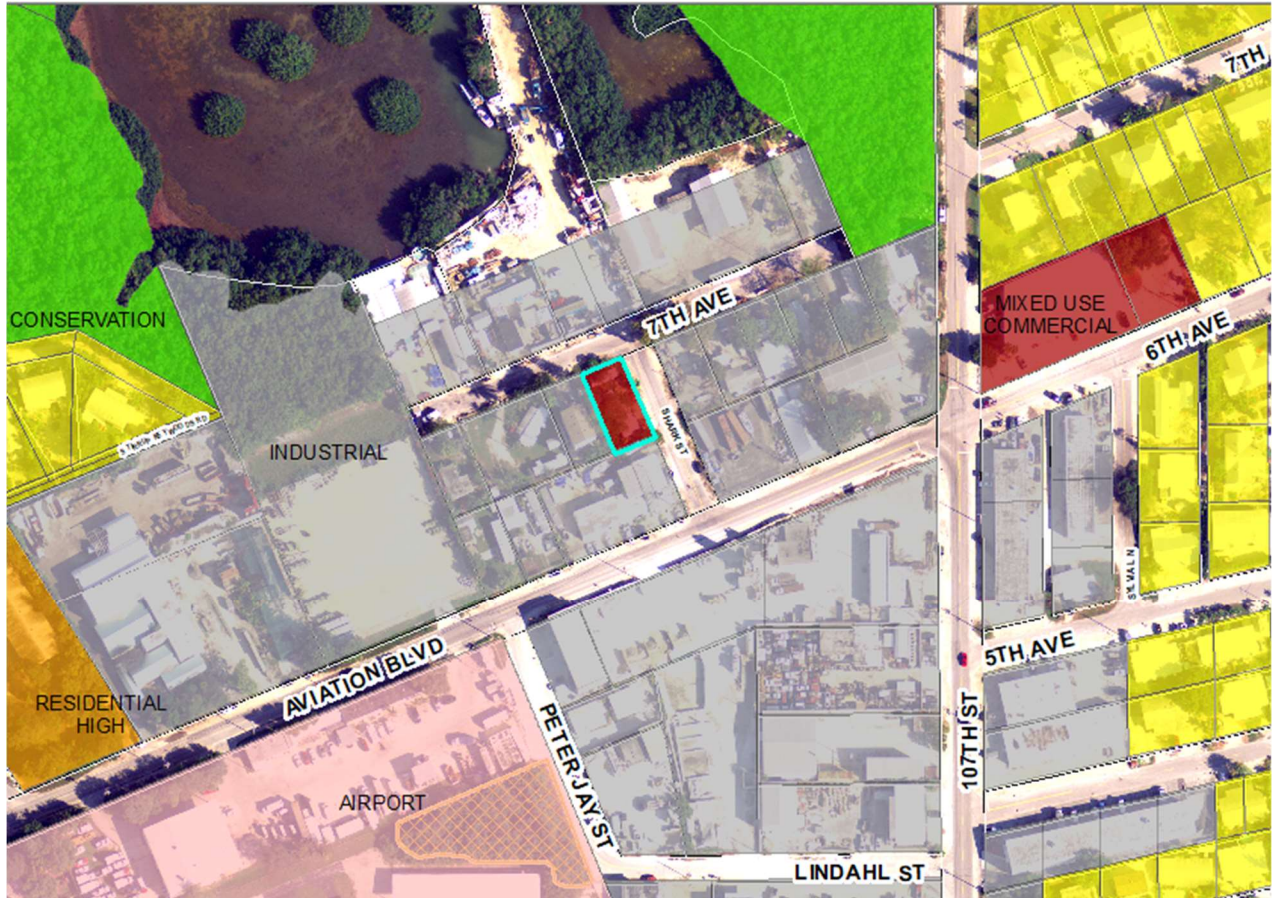
Diane Clavier, City Clerk

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

Steve Williams, City Attorney

DRAFT

ATTACHMENT A
Current FLUM



Sponsored By: Garrett
Planning Commission Public Hearing Date: April 18, 2022
City Council Public Hearing Dates: May 10, 2022
Enactment Date: TBD

CITY OF MARATHON, FLORIDA
ORDINANCE 2022-XXX

AN ORDINANCE OF THE CITY OF MARATHON FLORIDA AMENDING THE ZONING FROM MIXED USE (MU) TO INDUSTRIAL (I-G) FOR PROPERTY DESCRIBED AS BK 1, E ½ OF LOT 4 STIRRUP KEY BIGHT PB3-168 KEY VACAS, MARATHON, MONROE CO., FLORIDA, HAVING REAL ESTATE NUMBER 00333450-000100; 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 Pro Management Property Enterprises LLC, from Mixed Use (MU) to Industrial (I-G); 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 April 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 **XXX** 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 Mixed Use (MU) 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 Xth day of X 2022.

THE CITY OF MARATHON, FLORIDA

, Mayor

AYES:

NOES:

ABSENT:
ABSTAIN:

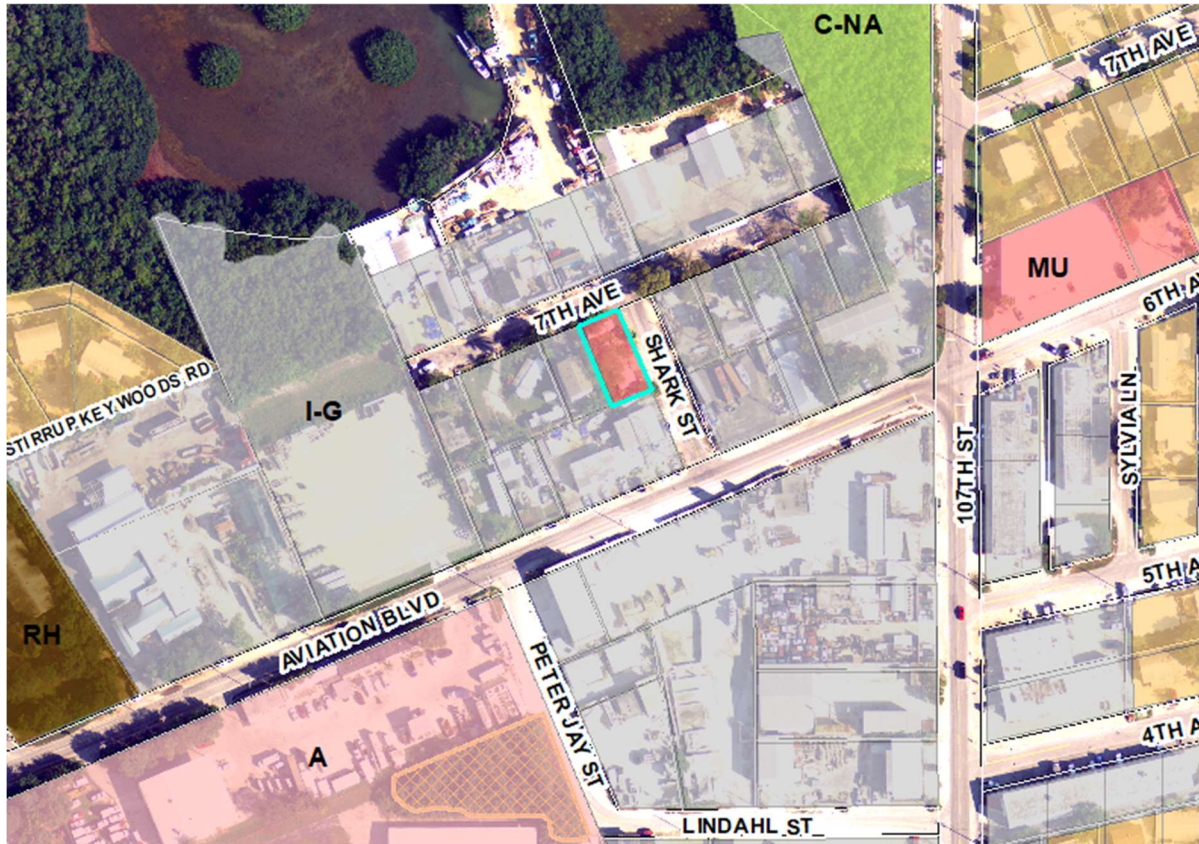
ATTEST:

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

ATTACHMENT A
Current Zoning



PLANNING COMMISSION AGENDA STATEMENT



MEETING DATE: April 18, 2022

FROM: Erin Dafoe, Planner

AGENDA ITEM: An Ordinance Of The City Of Marathon, Florida Amending The Future Land Use Map (FLUM) From Residential Medium (RM) To Mixed Use Commercial (MU-C) For Property Described As Bk 3 Lot 6 Key Colony Subdivision 4 Pb4-23, Key Vaca, Marathon, Monroe County, Florida, Having Real Estate Number 00335170-000000; 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.

An Ordinance Of The City Of Marathon, Florida Amending The Zoning From Residential Medium (RM) To Mixed Use (MU) For Property Described As Bk 3 Lot 6 Key Colony Subdivision 4 Pb4-23, Key Vaca, Marathon, Monroe County, Florida, Having Real Estate Number 00335170-000000; 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/OWNER: GA Contractors Inc. South Florida

LOCATION: The subject property is located on 7th Ave Gulf, nearest Mile Marker 53 and is legally described as Block 3 Lot 6 Key Colony Subdivision 4 Pb4-23, Key Vaca, Marathon, Monroe Co., Florida, Having Real Estate Number 00335170-000000

ADDRESS: 10881 7th Ave Gulf

REQUEST: Amend the Zoning Map for the subject properties from Residential Medium (RM) to Mixed Use (MU).

LOT AREA: The aggregated size of the parcels is approximately 0.22 acres (9,613 sq./ft.)

LOCATION MAP

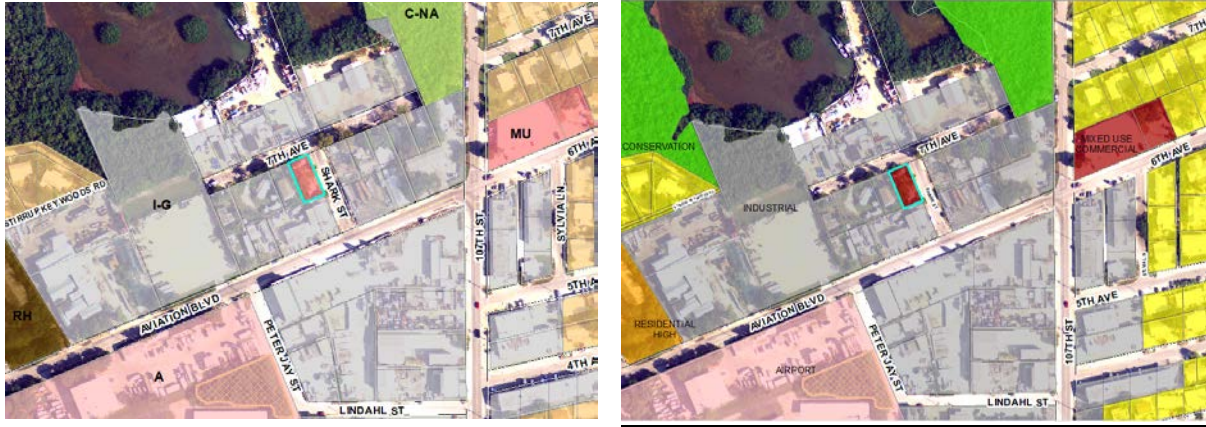


BACKGROUND:

This parcel was zoned as Improved Subdivision Duplex (ISD) under Monroe County. In 2005, when the City of Marathon adopted the Comprehensive Plan, the parcels were given a Residential Medium (RM) FLUM designation and were in turn zoned as Residential Medium (RM) when the City adopted the current zoning maps in 2007. The applicants are requesting the re-designation of the FLUM map and subsequent rezoning to make the parcel Mixed-Use Commercial (MU-C) for commercial storage and building. The FLUM change is not addressed in this application.

Pre 2005 OLD FLUM	Pre 2007 OLD ZONING	2005 CURRENT FLUM	2007 CURRENT ZONING
Residential Medium	Improved Subdivision Duplex	Residential Medium	Residential Medium

Existing FLUM and Zoning



Current and Proposed Future Land Uses and Zoning

Future Land Use Map Designation

Current: Residential Medium (RM)
Proposed: Mixed Use Commercial (MU-C)

Land Use (Zoning) District Designation

Existing: Residential Medium (RM)
Proposed: Mixed Use (MU)

Use of Properties

Existing: Residential Duplex
Proposed: Commercial storage and building

Surrounding FLUM, Zoning and Uses

The property subject to the FLUM amendment is located on 7th Ave Gulf and consists of one parcel. The property is located in an area with Residential Medium and Mixed Use. Adjacent land use includes commercial uses businesses to the South, Industrial to the west and single-family residences immediately to the East and North. The following table correlates existing uses with the existing FLUM, zoning and uses.

	<u>Existing FLUM</u>	<u>Existing Zoning</u>	<u>Existing Uses</u>
North	Residential Medium (RM)	Residential Medium (RM)	Single Family Residences
East	Residential Medium (RM)	Residential Medium (RM)	Single Family Residences
South	Mixed Use Commercial (MU-C)	Mixed Use (MU)	Commercial Storage Warehouse
West	Industrial and Conservation	Industrial General (IG) and Conservation Native Area (C-NA)	Marathon Electric Sign & Light, portion of Vacant Land

Existing Habitat

The existing conditions maps indicate the properties are designated as developed. The property is not listed on the Species Focus Area. 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.

FEMA

The properties are within the AE 7 flood zone.

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 land use category is to provide for medium density residential development.”

Residential Medium Allowable Density:

Market Rate – 5 Units per acre

Affordable – 10 units per acre

Proposed FLUM: Mixed Use Commercial (MU-C)

Policy 1-3.1.4 Mixed Use Commercial of the Comprehensive Plan states “the principal purpose of the Mixed-Use Commercial land use category is to provide for the establishment of Mixed-Use development patterns within the City. This land use category is intended to provide for the commercial zoning district 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.”

Mixed Use Commercial Allowable Density

Market Rate – 2-6 Units per acre

Affordable – 10-15 units per acre

Transient – 10-25 units per acre

Commercial-Industrial Intensity Table

Type of Use	FAR ¹
Retail	
<i>Low Intensity</i>	.60
<i>Med Intensity</i>	.45
<i>High Intensity</i>	.25
Office	.60
Commercial Recreation	.15
Institutional	.30
Outdoor Recreational	.15
Public Buildings and Uses	.45
Restaurant/Bar	.60
Industrial	.85
Light Industrial in MU	.30

¹ The FAR for mixed use developments may be increased to .75 if mitigated by the development of affordable/workforce housing is provided

The existing duplex uses up all the density. To move forward with commercial use of the property the duplex would need to be demolished.

ANALYSIS OF FLUM CHANGE REQUEST:

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

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

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

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

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

- a. Variable buffers, combining land and landscaping to achieve adequate separation of uses, appropriate open space, reduction of potential noise, light, glare, and pollution, and screening of physical features of a proposed development;
- b. Variable setbacks, based upon degree of difference in proposed use, density, intensity, scale, mass, or height;

- c. Placement and effective screening or shielding of site features such as lights, signs, dumpsters, loading areas, parking areas, outdoor storage, or other features with potential negative impacts;
- d. Effective transitions of on-site densities, intensities, scale, mass, and height; and
- e. Other innovative site design features that effectively achieve compatibility and effectively mitigate potential negative impacts.

FL State Statutes

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

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

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

Natural Resources

There is no direct impact. It is not within Florida Forever boundaries or critical habitat areas.

There are no associated wetlands, estuaries, beach areas or dunes associated with the area proposed for FLUM change. These are protected resources important to the tenants of Chapter 163, 9J-5, F.A.C., or the Principals for Guiding Development.

The proposed FLUM amendment is consistent with these provisions of the Comprehensive Plan and Chapters 16 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 change. Therefore, the FLUM change would have no impacts on historical or cultural resources. The proposed FLUM amendment is 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 subject property inclusive of the area of the proposed FLUM change is served by the Area 5 sewer infrastructure. The Utility Manager for the City of Marathon reviewed the proposed FLUM changes and determined that there would be no adverse impact on sewer capacity if the proposal were approved.

The proposed FLUM change would maintain concurrency levels of wastewater infrastructure capacity and provide limited or no adverse impact resulting from nutrient loading. The proposed FLUM amendment is, therefore, consistent with these provisions of the Comprehensive Plan and Chapters 16 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 & South Florida Water Management District.

Staff believes that the proposed FLUM change would have a diminimus impact on stormwater infrastructure capacity.

- **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 FCAA 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 FCAA'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 FCAA'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 amendment is, 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 change would maintain concurrency levels of solid waste infrastructure capacity. The proposed FLUM amendment is, 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 change would maintain concurrency levels of transportation on U.S. Highway 1. The proposed FLUM amendment is, 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 proposed FLUM change would facilitate a potential for increased affordable housing on site. The Public FLUM category allows for a potential increase of 15 units per acre of affordable housing versus the RM FLUM category.

The proposed FLUM change will have the effect of enhancing the potential for affordable housing projects. The proposed FLUM amendment is therefore consistent with these provisions of the Comprehensive Plan and Chapters 16 and 380 F.S.

Hazard Mitigation

• Coastal High Hazard Areas

The subject parcel, closest to the Atlantic Ocean, is in a 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 change results in a diminished hazard to public safety. Permanent residential would be replaced with non- residential and therefore represents decreased development in the

CHHA on site. The proposed FLUM amendment is, 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 change would have a positive impact on hurricane evacuation times with the BPAS system in place. The proposed FLUM amendment is, 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 change will have no adverse impact on ports management or the City’s Marina Siting Plan. Marinas are allowed under a conditional use permit in the Mixed Use (MU) zoning district under the City’s Land Development Regulations; while no marina development is foreseeable, a Marina Operating Permit, consistent with the LDRs would be required, this would include obtaining coordination letters from external agencies, and all necessary Federal, State, and local approvals and permitting.

The proposed FLUM amendment is, 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 amendment is, 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 carried out 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 parcels are not on the Florida Forever boundary map.

The proposed FLUM change would have no impact on land acquisition efforts of the above-mentioned entities so long a conservation easement is ensured. The proposed FLUM amendment is, therefore, consistent with these provisions of the Comprehensive Plan and Chapters 16 and 380 F.S.

SUMMARY:

The applicants have requested a change in the Zoning designation for the parcel located on 7th Avenue Gulf. Currently the property is designated as Residential Medium (RM). The applicant is requesting a change to Mixed Use Commercial (MU-C), and subsequent rezoning of the parcel.

Staff finds the proposed rezoning 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:

Based on the above information, the Marathon Planning Department staff recommends that the Planning Commission forward a recommendation to Council for transmittal of the request to amend the Zoning Map for this parcel from Residential Medium (RM) to Mixed Use (MU).

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: April 18, 2022
City Council Public Hearing Dates: May 10, 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 MIXED USE COMMERCIAL (MU-C) FOR PROPERTY DESCRIBED AS BK 3 LOT 6 KEY COLONY SUBDIVISION 4 PB4-23, KEY VACA, MARATHON, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00335170-000000; 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 Manny & Sons LLC, from Residential Medium (RM) to Mixed Use-Commercial (MU-C); 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 April 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 **XXX** 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 Mixed Us-Commercial (MU-C) (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 XTH DAY OF X 2022.

THE CITY OF MARATHON, FLORIDA

, 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

ATTACHMENT A



DRAFT

Sponsored By: Garrett
Planning Commission Public Hearing Date: April 18, 2022
City Council Public Hearing Dates: May 10, 2022
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 MIXED USE (MU) FOR PROPERTY DESCRIBED AS BK 3 LOT 6 KEY COLONY SUBDIVISION 4 PB4-23, KEY VACA, MARATHON, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00335170-000000; 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.

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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 **XXX** 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.

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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 Mixed Use (MU) 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 Xth day of X 2022.

THE CITY OF MARATHON, FLORIDA

, 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

ATTACHMENT A Current Zoning



- Marathon Current Zoning**
- Residential Conservation (R-C)
 - Residential Low (RL)
 - Residential Medium (RM-1)
 - Residential Medium (RM-2)
 - Residential Medium (RM)
 - Residential - Mobile Home R/MH
 - Residential High (RH)
 - Industrial General (I-G)
 - Industrial Maritime (I-M)
 - Conservation Native Area (C-NA)
 - Conservation Off-shore Island (C-OI)
 - Parks And Recreation (PR)
 - Public (P)
 - Airports (A)
 - Mixed Use (MU)
 - Mixed Use Maritime (MU-M)

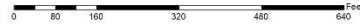


City of *Marathon*
Official Map Product

10881 7th Ave Gulf
RE: 00335170-000000



Date: 4/13/2022



PLANNING COMMISSION AGENDA STATEMENT



Meeting Date: April 18, 2022
To: The City of Marathon Planning Commission
From: Brian Shea, Planning Director

Agenda Items: An Ordinance Of The City Of Marathon, Florida, Amending The City Of Marathon’s Comprehensive Plan Modifying Chapter Four, “Conservation And Coastal Element,” And Intending To Modify Policy 4-1.4.2, “Maintain A 50 Foot Buffer Adjacent To Wetlands,” Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity After The First Hearing By The City Council; And Providing For An Effective Date.

An Ordinance Of The City Of Marathon, Florida, Amending Chapter 106 “Natural And Historic Resources Protection”, Article 4 “Open Water, Surface Waters And Wetlands”, Updating Table 106.28.1 “Water Resource And Wetland Buffers”; Providing For The Repeal Of All Code Provisions And Ordinances Inconsistent With This Ordinance; Providing For Severability; Providing For Inclusion In The Code Of Ordinances, City Of Marathon, Florida; And Providing An Effective Date.

RECOMMENDATION:

The Planning staff recommends approval of both Ordinances modifying provisions concerning the setback of structures from wetlands.

APPLICANT: City of Marathon

REQUEST: Amend City of Marathon Comprehensive Plan and Land Development Regulations in an effort to streamline regulations to be consistent with external agency approvals.

ANALYSIS OF COMPREHENSIVE PLAN CHANGE REQUEST:

Preface

The current Land Development Regulations provide only brief guidance concerning the review of a proposed Comprehensive Plan Amendment.

Section 102.19 simply states:

[Section 102.19. Standards for Review.](#)

When considering an application for a Comprehensive Plan Amendment, the review shall include all standards and criteria of Fla. Stat. ch. 163.

Standards in Chapter 163, F.S. offer some additional guidance, but are limited. Pertinent sections of Chapter 163 promulgate process rather than establishing criteria for the development of a proposed Comprehensive Plan Amendment. Chapter 163.3184, Process for adoption of comprehensive plan or plan amendment, define the sequential process for transmittal, review, and approval of a Comprehensive Plan Amendment. Most relevant to this delineation of process is the definition of “**compliance**” which is recited for review below:

163.3184 Process for adoption of comprehensive plan or plan amendment. --

(1) DEFINITIONS. --As used in this section, the term:

(b) "In compliance" means consistent with the requirements of ss. [163.3177](#), when a local government adopts an educational facilities element, 163.3178, 163.3180, 163.3191, and 163.3245, with the state comprehensive plan, with the appropriate strategic regional policy plan, and with chapter 9J-5, Florida Administrative Code, where such rule is not inconsistent with this part and with the principles for guiding development in designated areas of critical state concern and with part III of chapter 369, where applicable. Thus, leading through an exhaustive process, the State Land Planning Agency must find a Comprehensive Plan or Plan Amendment in compliance in accordance with the above definition. Process as further defined in the section leads from Local Government Transmittal through review by the State Land Planning Agency and other required local and state government bodies to a finding of “in compliance” by the State Land Planning Agency.

Review is contemplated and expected to be completed by such agencies as the South Florida Regional Planning Council, whose responsibility it is to review the proposal for consistency with the Strategic Regional Policy Plan. Such review is not therefore, the responsibility of the local government to determine consistency in this regard and will not be addressed herein. Though referenced in the definition of compliance and elsewhere Chapters 163.3177, 163.3191, 163.3245, and 369 will not be reviewed as a compliance matter. Chapter 163.3177 defines required elements in a comprehensive plan. The City has an approved comprehensive plan which must be assumed to have all required elements. Chapter 163.3191 refers to the required Evaluation and Appraisal Report (EAR); a review of an approved comprehensive plan required of the City every seven years. The City is not subject to an EAR at this juncture and therefore is not relevant as a criterion to the review herein. Finally, Chapter 163.3245 refers to the development of an optional sector plan. This optional element of an approved comprehensive plan was not adopted by the City and therefore will not be used as a criterion for review in this proposed FLUM amendment. Chapter 369 refers to invasive aquatic plant control and the Wekiva River area and similarly will not be the subject of compliance review herein.

Other pertinent review elements leading to a determination of compliance are found in Chapter 163.3178 Coastal management, Chapter 163.3180 Concurrency, and the principals for guiding development in the Florida Keys Area of Critical State Concern. This application for a FLUM amendment will be analyzed against the limited compliance issues found in sections of Chapter

163 F.S. and Chapter 380 F.S. noted immediately above. Relevant sections are provided in EXHIBITS 2, 3, & 4 attached or with website references for your review

Compliance Discussion

Relevant criteria promulgated in Chapters 163 and 380 F.S. can be itemized in bullets as follows based on the critical concerns more specifically identified in the City's comprehensive plan:

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

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

BACKGROUND

Subsection 62-330.010(4) of the Florida Administrative Code adopted by reference the Environmental Resource Permit Applicant Handbook Volume I (General and Environmental), including appendices G, H, and I only. This is used by the following agencies for review of environmental resource permits:

- Florida Department of Environmental Protection

- Northwest Florida Water Management District
- Suwannee River Water Management District
- St. Johns River Water Management District
- Southwest Florida Water Management District
- South Florida Water Management District

The Florida Department of Environmental Protection (“Department” or “DEP”) and Florida’s five water management districts (“Districts” or “WMDs”) developed this Applicant’s Handbook to help persons understand the rules, procedures, standards, and criteria that apply to the environmental resource permit (ERP) program under Part IV of Chapter 373 of the Florida Statutes (F.S.). The ERP program is authorized under Part IV of Chapter 373 F.S. More specifically, Section 373.4131, F.S., authorizes implementation of the statewide ERP rules. Chapter 120, F.S. (Administrative Procedures Act) also governs licensing, rulemaking, and administrative procedures under the ERP program. Chapter 403, F.S. (Environmental Control) governs aspects of the ERP program related to water quality, program implementation, exemptions, and general permits.

Part 1.5.3 of the handbook discusses how the proposed land use to be served by an activity regulated under Chapter 62-330, F.A.C., does not have to be consistent with the local government's comprehensive plan or existing zoning for the site. It then goes on to further state that it is strongly recommended that applicants obtain necessary permits from local governments prior to applying to these external agencies as part of the ERP application. The applicant can reduce or eliminate the need for subsequent permit modifications which may be necessary as a result of conditions imposed by the local government.

In an effort to avoid these issues, the City is proposing to match the existing external agency regulations. Specifically, by updating the Comprehensive Plan and LDRs to adopt the following wetland setback criteria.

“Secondary impacts to the habitat functions of wetlands associated with adjacent upland activities will not be considered adverse if buffers, with a minimum width of 15 ft. and an average width of 25 ft., are provided abutting those wetlands that will remain under the permitted design, unless additional measures are needed for protection of wetlands used by bald eagles for nesting, or listed species for nesting, denning, or critically important feeding habitat. The mere fact that a species is listed does not imply that all its feeding habitat is critically important. Buffers shall be maintained in an undisturbed vegetated condition, except when the permit requires removal of exotic and nuisance vegetation or the planting of appropriate native species to prevent adverse secondary impacts to the habitat functions of the wetlands. Drainage features such as spreader swales and discharge structures are acceptable within the buffer, provided the construction or use of these features does not adversely impact wetlands. [...] Wetlands or other surface waters shall not be filled to achieve this buffer requirement.”

ANALYSIS

Natural Resources

No Significant Impact would result from the proposed change, as the proposed change is consistent with external agency approvals. In addition, the additional buffering and conservation easement requirements furthers the future protection of the natural resources.

Historical and Cultural Resources

No Significant Impact would result from the proposed change.

Infrastructure

No Significant Impact would result from the proposed change.

Wastewater infrastructure

No Significant Impact would result from the proposed change.

Stormwater infrastructure

No Significant Impact would result from the proposed change. The additional language pertaining to stormwater measures in the buffer areas furthers the goals of this section and preserves the natural functioning wetlands capacity to absorb stormwater.

Potable Water

No Significant Impact would result from the proposed change.

Solid Waste

No Significant Impact would result from the proposed change.

Transportation

No Significant Impact would result from the proposed change.

Affordable Housing

The proposed amendment will not affect the construction of affordable housing appreciably. It may allow for the relocation of affordable housing on site to change the overall site plan but does not change the maximum densities for affordable housing.

Hazard Mitigation

No Significant Impact would result from the proposed change. However, the recording of conservation easements over wetland areas can be credited for points in the FEMA community rating system.

Coastal High Hazard Areas

No Significant Impact would result from the proposed change.

Hurricane Evacuation

No Significant Impact would result from the proposed change.

Ports – Marina Siting

No Significant Impact would result from the proposed change.

Public Use – Access to Water

No Significant Impact would result from the proposed change.

Land Acquisition

No Significant Impact would result from the proposed change in regard to the CHHA and public services. However, there would be the beneficial impact of conservation easements being recorded on existing wetlands within the City of Marathon.

Alternate Compliance Review Criteria

Since there are no internal Comprehensive Plan change review criteria available in Chapter 102, Article 6, those that would apply for an LDR text change request (Chapter 102, Article 7) are useful. The basis for the LDR text change criteria is the same as for a Comprehensive Plan change ultimately.

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

A. The need and justification for the change;

City Council, Planning Commission, and citizens have asked staff to look into streamlining regulations to make them consistent with external agency approvals. Often applicants seek approval from external agencies prior to applying for permits or approvals from the City of Marathon. The City has the ability to be more restrictive in regulations, but not less restrictive. In this instance current regulations state that a 50-foot setback is required to protect wetlands. However, there are instances where the code allows this to be reduced. This reduction is still consistent with, and not less restrictive than said external agency approvals. Expanding the definitions of when the reduction can occur based upon the external agency approvals will make reviews consistent with multiple agencies. Therefore, staff is recommending meeting those same restrictions, while still applying additional restrictions and reviews consistent with other sections of the code and comprehensive plan.

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

The proposed Ordinance meets three principal areas of concern reflected in the City’s Comprehensive Plan. First, the proposed amendment seeks to meet all the necessary requirements that all new development and redevelopment protects the environment. Second, The Ordinance does not allow any additional impact to wetlands and provides for the protection and enhancement of sensitive uplands. Third, the proposed amendment seeks to maintain the traditional community character of Marathon, which is so closely tied to the environment.

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 regulations do further the basic goals and premises outlined in the introductory to the City’s Comprehensive Plan as follows (highlighting for emphasis):

“With the knowledge that the City needs redevelopment and new development to provide the necessary improvements to guarantee the residents of the City a clean, healthy environment and a sound economy in which to live and enjoy their families, it is the desire and intent of the City through the Goals, Objectives and Policies of the adopted Comprehensive Plan and Land Development Regulations implementing the Plan to protect our character, environment and viability through:

- Protection of the small-town family feel of the community
- Continued utilization of the established mixed-use pattern of the community
- Protection of the heritage of the commercial fishing industry
- Acknowledgement and protection of a character that is unique to the Keys
- Protection of existing and increased affordable housing opportunities
- Implementation of effective surface water management strategies
- Systematic removal of failing and inadequate on-site wastewater disposal systems
- Maintenance and management of central wastewater and stormwater facilities
- Protection and enhancement of sensitive upland, wetland, and submerged land habitat
- Protection for the existing uses, densities, and intensities
- Providing new investment and reinvestment opportunities
- Ensuring new development and redevelopment protects the environment
- Ensuring new and redevelopment compliments and enhances community character
- Implementation of thoughtful, managed growth.”

CONCLUSION:

The proposed Amendment is consistent with and furthers the goals of the City of Marathon Comprehensive Plan and Land Development Regulations.

RECOMMENDATION:

The Planning staff recommends approval of both Ordinances modifying provisions concerning the setback of structures from wetlands.

Sponsored By: Garrett
Planning Commission Public Hearing Date: April 18, 2022
City Council Public Hearing Date: May 10, 2022
tbd
Enactment Date: tbd

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

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING THE CITY OF MARATHON’S COMPREHENSIVE PLAN MODIFYING CHAPTER FOUR, “CONSERVATION AND COASTAL ELEMENT,” AND INTENDING TO MODIFY POLICY 4-1.4.2, “MAINTAIN A 50 FOOT BUFFER ADJACENT TO WETLANDS,” PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY AFTER THE FIRST HEARING BY THE CITY COUNCIL; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Marathon (the "City") has adopted a Comprehensive Plan which has been found to be in compliance by the State Department of Economic Opportunity ("DEO"), pursuant to Chapters 163 and 380, Florida Statutes; and

WHEREAS, Subsection 62-330.010(4) of the Florida Administrative Code adopted by reference the Environmental Resource Permit Applicant Handbook Volume I (General and Environmental), including appendices G, H, and I only; and

WHEREAS, The Florida Department of Environmental Protection (“Department” or “DEP”) and Florida’s five water management districts (“Districts” or “WMDs”) developed this Applicant’s Handbook to help persons understand the rules, procedures, standards, and criteria that apply to the environmental resource permit (ERP) program under Part IV of Chapter 373 of the Florida Statutes (F.S.); and

WHEREAS, it is the City’s intent to amend the wetland setback criteria to provide consistency with the external agency approval process noted above; and

WHEREAS, the City does not want to unduly constrain construction in the City so long as the proposed construction is consistent with the protection of wetlands; and

WHEREAS, the City Council finds it necessary, desirable, and proper to adopt the amendments to the Goals, Objectives, and Policies of the Comprehensive Plan to reflect changing conditions, pursuant to Sections 163.3191 and 163.3178(2)(f) Florida Statute.; and

WHEREAS, this Ordinance, thus passed at its first reading, shall be transmitted to DEO and

sister State Agencies for their coordinated Comprehensive Plan review to obtain and receive the DEO Objections, Recommendations, and Comments (ORC) prior to final adoption,

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

~~Strikethrough~~ = deletion **bold underline** = addition

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

SECTION 2. Amend the Comprehensive Plan, Chapter 4, Conservation and Coastal Element, “Policy 4-1.4.2:”

Policy 4-1.4.2 Maintain a 50 Foot Buffer Adjacent to Wetlands

The City shall require minimum vegetated setbacks of fifty (50) feet to be maintained as an open space buffer for development occurring adjacent to all types of wetlands except for tidally inundated mangrove fringes or permitted under Objective 4-1.11. If a fifty (50) foot setback results in less than 2,000 square feet of principal structure footprint of reasonable configuration then the setback may be reduced to allow for 2,000 square feet of principal structure footprint of reasonable configuration, provided the setback is not reduced to less than twenty-five (25) feet. ~~On properties classified as searified adjacent to wetlands,~~ The wetland setback may be reduced to an average of twenty-five (25) feet, but no less than fifteen (15) feet, without regard to buildable area if the entire setback area is planted and maintained in native vegetation with a site-suitable stormwater management plan, and thereafter placed under conservation easement. The wetland setback reduction shall not apply to wetlands used by bald eagles for nesting, or listed species for nesting, denning, or critically important feeding habitat. The mere fact that a species is listed does not imply that all of its feeding habitat is critically important. The wetland setback required by this subsection shall not apply to mangrove or wetland fringes occurring along man-made canals, channels, or basins. Wetlands or other surface waters shall not be filled to achieve the setback buffer requirement. ‘Development’ shall include all activities as currently defined in the F.S. 380.05, hereby incorporated by reference. §163.3177(6)(d)2. j. F.S.

SECTION 3. 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 4. The provisions of this Ordinance constitute a “Comprehensive Plan amendment” as defined by State law. Accordingly, the City Clerk is authorized to forward a copy of this Ordinance to the DCA and other state agencies for review and approval pursuant to Sections 380.05(6) and (11), Florida Statutes.

SECTION 5. This Ordinance shall be effective immediately upon approval by Department of Economic Opportunity pursuant to Chapters 163 and 380, Florida Statutes.

ENACTED 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

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

Steven Williams, City Attorney

Sponsored By: Garrett
Planning Commission Public Hearing Date: April 18, 2022
City Council Public Hearing Date: May 10, 2022
tbd
Enactment Date: tbd

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

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING CHAPTER 106 “NATURAL AND HISTORIC RESOURCES PROTECTION”, ARTICLE 4 “OPEN WATER, SURFACE WATERS AND WETLANDS”, UPDATING TABLE 106.28.1 “WATER RESOURCE AND WETLAND BUFFERS”; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES, CITY OF MARATHON, FLORIDA; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Marathon (the "City") has adopted a Comprehensive Plan which has been found to be in compliance by the State Department of Economic Opportunity ("DEO"), pursuant to Chapters 163 and 380, Florida Statutes; and

WHEREAS, Subsection 62-330.010(4) of the Florida Administrative Code adopted by reference the Environmental Resource Permit Applicant Handbook Volume I (General and Environmental), including appendices G, H, and I only; and

WHEREAS, The Florida Department of Environmental Protection (“Department” or “DEP”) and Florida’s five water management districts (“Districts” or “WMDs”) developed this Applicant’s Handbook to help persons understand the rules, procedures, standards, and criteria that apply to the environmental resource permit (ERP) program under Part IV of Chapter 373 of the Florida Statutes (F.S.); and

WHEREAS, it is the City’s intent to amend the wetland setback criteria to provide consistency with the external agency approval process noted above; and

WHEREAS, the City does not want to unduly constrain construction in the City so long as the proposed construction is consistent with the protection of wetlands; and

WHEREAS, the City Council finds it necessary, desirable, and proper to adopt the amendments to the Land Development Regulations corresponding to a similar amendment to the City’s Comprehensive Plan to reflect changing conditions, pursuant to Sections 163.3191 and 163.3178(2)(f) Florida Statute.; and

WHEREAS, this Ordinance, thus passed at its second reading, shall be transmitted to DEO for review

and approval,

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

~~Strikethrough~~ = deletion **bold underline** = addition

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

SECTION 2. Amend the Land Development regulations, Chapter 106, “Natural and Historic Resources Protection,” Article 4, “Open Water, Surface waters And Wetlands,” Section 106.28:

Section 106.28. Water Resource and Wetland Buffers.

A. Buffers are integral to the maintenance of water resources and wetland structure and function. A buffer shall be required between all proposed activity and the landward extent of the water resource or wetlands as established in this chapter. The following buffer widths shall apply for the resources set forth in Table 106.28.1 below.

Table 106.28.1
Water Resource and Wetland Buffers

Type of Development/Protected	Resource Buffer Distance (ft)	Buffer Standards
Principal structure on manmade canals, channels, basins and lawfully altered shorelines.	20	Measured from the MHWL or the landward extent of the root system of the mangroves, whichever is further landward.
Small lots less than 4,500 square feet principal structure on manmade canals, channels, basins and lawfully altered shorelines	10	Measured from the MHWL or the landward extent of the root system of the mangroves, whichever is further landward.
Principal structure on open water for all unaltered or unlawfully altered shorelines.	50	Measured from the MHWL or the landward extent of the root system of the mangroves, whichever is further landward.
Principal structure on open water where original slope landward of the water has been significantly altered by filling, where no bulkhead, significant armoring or mangrove fringe exists.	30 minimum	Measured from the MHWL. Minimum buffer criteria: native vegetation exists or is planted and maintained in at least ten (10) feet width across the entire shoreline, otherwise the setback shall be fifty (50) feet. Shall not be available for recognized Marine Turtle nesting habitats.
Principal structure on open water where original slope landward has been significantly altered by filling but a mangrove fringe exists that is contiguous from side lot line to side lot line and is at least ten (10) feet wide at the root zone.	30 minimum	Measured from the MHWL or the landward extent of the root system of the mangroves, whichever is further landward.
Principal structures on in-fill lots, along open water shorelines not adjacent to manmade	20 minimum	Measured from the MHWL or the landward extent of the root system of the mangroves,

canals, channels, or basins, and which have been altered by the legal placement of fill, which are surrounded by significant development where principal structures are set back less than fifty (50) feet from the MHWL		whichever is further landward; City Planning Director may evaluate community character, environmental features, and setbacks on adjacent developed properties within two parcels on either side of the proposed development and may allow buffer as far back as practicable or in line with adjacent principal structures. If existing pattern of setback is greater than thirty (30) feet, a buffer of fifty (50) feet is required. Shall not be available for recognized Marine Turtle nesting habitats.
Marine Turtle Nesting habitat	50	Setback measured from the nesting area which is the first fifty (50) feet from MHWL for a total one hundred (100) feet from MHWL or the landward toe of the most landward beach berm not to exceed one hundred (100) feet from MHWL.
Accessory structure ¹ on all manmade canals, channels, basins and lawfully altered shorelines.	10 minimum**	Measured from MHWL <u>or the landward extent of the root system of the mangroves, whichever is further landward.</u>
Accessory structure on all unaltered shorelines.	25 minimum**	Measured from the MHWL or the landward extent of the root system of the mangroves, whichever is further landward.
Accessory structure ¹ on all significantly filled shorelines on open water with a contiguous mangrove fringe.	15 minimum**	Measured from the MHWL or the landward extent of the root system of the mangroves, whichever is further landward.
Accessory structure ¹ on significantly filled open water shorelines where there is no significant armoring, continuous mangrove fringe or bulkhead.	15 minimum**	Provided that native vegetation exists or is planted and maintained in at least a ten (10) foot wide buffer across the entire shoreline or must maintain setbacks for an unaltered shoreline. Measured from the landward edge of the shoreline buffer
Wetlands, except for tidally inundated mangrove fringes <u>that include listed habitat or animal species***</u>	50	May be reduced to a minimum of twenty-five (25) feet to allow for 2,000 sq. ft. of principal structure if fifty (50) foot setback results in less than 2,000 sq. ft. of principal structure of reasonable configuration.
Properties classified as scarified adjacent to wetlands <u>Wetlands, except for tidally inundated mangrove fringes that do not include listed habitat or animal species***</u>	50*	May be reduced to <u>minimum an average of twenty-five (25) feet but no less than fifteen (15) feet</u> without regard to buildable area if entire setback is planted and maintained in native vegetation with a site suitable stormwater management plan and placed under conservation easement. <u>Buffer must include a solid wall or fence a minimum of six foot tall.</u>

Wetlands that include listed habitat or animal species***	25 minimum*	Buffer may be reduced to allow for up to 2,000 square feet of principal structure footprint of reasonable configuration.
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Footnotes for Table 106.28.1

* If the buffer precludes all economically viable use of a particular property, development as defined in the F.S. 380.05, may be allowed within the buffer in accordance with Plan policy 4-1.4.2.

** Exception: docks, docking facilities, utility pilings, fences, boat ramps, slips and basins; seawalls, retaining walls, riprap, bulkheads, walkways, water observation platforms and walkways.

*** The wetland setback reduction shall not apply to wetlands used by bald eagles for nesting, or listed species for nesting, denning, or critically important feeding habitat. The mere fact that a species is listed does not imply that all of its feeding habitat is critically important.

¹*Limited to utility pilings, fences, docks, boat ramps, boat slips, boat shelters, seawalls, retaining walls, riprap, bulkheads, walkways and outdoor sport and recreational accessory structures such as, but not limited to, non-enclosed decks, gazebos, pools, spas, permanent barbecues, or fish cleaning tables.*

- B. The buffer shall retain the existing undisturbed vegetation. No activity shall occur within a buffer area, except as expressly provided in this Section or as approved by the City of Marathon in accordance with standards set forth in this article. The above shall not be interpreted to prohibit the removal of non-native vegetation or the planting of native vegetation.
- C. Wetlands or other surface waters shall not be filled to achieve the setback buffer requirement.
- €D. In the event that alteration to a surface water buffer or wetland buffer area occurs without first obtaining the approval required by this chapter, restoration or other corrective action shall be required of the responsible party at a ratio of 3:1.

SECTION 3. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause of 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 4. The provisions of this Ordinance constitute an amendment to the Land Development Regulations as defined by State law. Accordingly, the City shall forward a copy of this Ordinance to the Department of Economic Opportunity for review and approval pursuant to Sections 380.05(6) and (11), Florida Statutes.

SECTION 5. This Ordinance shall be effective immediately upon approval by Department of Economic Opportunity pursuant to Chapters 163 and 380, Florida Statutes.

ENACTED 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

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

Steven Williams, City Attorney



PLANNING COMMISSION AGENDA STATEMENT

Meeting Date: April 18, 2022
To: Planning Commission
From: Brian Shea, Planning Director
Through: George Garrett, City Manager

Agenda Item: Ordinance 2022-XXX, An Ordinance Of The City Of Marathon, Florida, Amending Chapter 103 “Zoning Districts”, Article 3 “Use And Intensity Tables”, Updating Table 103.15.1 “Uses By Zoning District”, Updating Table 103.15.2 “DENSITY, INTENSITY AND DIMENSIONS FOR ZONING DISTRICTS”; Providing For The Repeal Of All Code Provisions And Ordinances Inconsistent With This Ordinance; Providing For Severability; Providing For Inclusion In The Code Of Ordinances, City Of Marathon, Florida; And Providing An Effective Date.

RECOMMENDATION:

Staff recommends APPROVAL.

BACKGROUND AND REQUEST:

The City of Marathon staff reviewed existing uses and zoning and found three code updates that require text amendments.

The proposed Ordinance does the following:

Section 103.15. - Standards.

- A. *Uses:* Certain uses, whether permitted as of right, limited, accessory or conditional uses may affect adjacent properties, the neighborhood, or community, even if the site planning and development standards of the applicable zoning district are satisfied. Uses in bold on Table 103.15.1 have special criteria contained in Article 1 of Chapter 104 "Specific Use Regulations", which are intended to mitigate potential problems and hazards, and to ensure consistency with the Plan.
- B. *Zoning Districts:* The density, intensity, setbacks, and dimensional standards relative to each parcel are subject to the limitations of the zoning district as reflected in Tables 103.15.1 and 103.15.2.

Table 103.15.1
Uses by Zoning District

ZONING DISTRICT	C-NA	C-OI	RL-C	RL	RM	RM-1	RM-2	R-MH	RH	MU	MU-M*	I-G	I-M*	A	P	PR
Bars and taverns— Section 104.06										C	C	<u>C</u>	<u>C</u>			

Beekeeping****	P	P	P	P	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>

Vacation Rental units	<u>L</u>	L	L	L	L	L	L	L	L	L	L					

*Permitted uses are limited to those which are related to the maritime industry

**Submerged Mooring Facilities may only be permitted in association with upland areas whose zoning is shown as having a "C"

***Existing Single-Family Residences may be repaired, modified, or replaced. Individual vacant Lots within Blocks defined within the Plat subject to RL-C zoning may be built upon IF the sum of all Lots within an individual Block are over 90 percent developed with single family residences as of the date that DEO accepts the Ordinance.

**** [Limited to Florida Registered Beekeepers with the Florida Department of Agriculture and Consumer Services \(FDACS\).](#)

Note: Uses may be subject to additional requirements, see Chapter 104, Specific Use Regulations.

(Ord. No. 2014-19, § 2, 10-28-2014; Ord. No. 2014-08, § 2, 6-24-2014; Ord. No. [2015-02](#), § 7, 6-16-2015; Ord. No. [2017-04](#), § 2, 8-8-2017; Ord. No. [2017-07](#), § 2, 11-14-2017; [Ord. No. 2019-01](#), § 3, 1-22-2019; [Ord. No. 2019-09](#), § 2, 8-13-2019; [Ord. No. 2019-14](#), § 3, 1-14-2020)

Table 103.15.2
DENSITY, INTENSITY AND DIMENSIONS FOR ZONING DISTRICTS

	A	C-NA	C-OI	I-G	I-M	MU	MU-M	P	PR	RH	R-MH	RM	RM-1	RM-2	RL	RL-C
Density Range (units per acre) ****		.25	0.1	5—10	5—10	6—15	6—15	10—25	1/4a c	8—25	8—25	5—10	4	5	0.5	.25 4
Market Rate (maximum)		.25	0.1			6	6		.25	8	8	5	4	5	0.5	0.2 5
Affordable (maximum) ³		.25	0.1	5-10	5-10	15	15	10-25	.25	15-25	25	10	4	5	0.5	.25
Transient						5-25		3-25	10	0	0	0	0	0	0	0
Min lot area per unit																

(square feet)																
Market Rate		4 acres	10 acres			7,260	7,260		4 acres	5,445	5,445	8,712	10,000	8,712	2 acre	4 acre
Affordable		4 acres	10 acres	4,356	4,356	2,904	2,904	1,742	4 acres	1,742	1,742	4,356	10,000	8,712	2 acre	4 acre
FAR	0.15-0.50	0.05-0.10	0.05-0.10	0.85	0.85	0.15-0.6 ¹	0.15-0.61	0.15-0.75	0.15-0.50							N/A
Setbacks																
Front, min	200	25	25	10	10	0-30	20	15	15	10	10	20	20	20	25	25
Rear, min	200	25	25	10	10	20	20	10	10	10	10	20	20	20	25	25
Side 1, min		10	10			0-10	10			5	5	5	10	10	10	10
Interior Side Min	200			5	5	10		5	5				10	5		
Side 2, min		10	10			0-10	10			5	5	5	10	10	10	10
Street Side Min	200			5	5	0-5		5	5							
Height Limit³	37 <u>42</u>	37 <u>42</u>	37 <u>42</u>	37 <u>42</u>	37 <u>42</u>	37 <u>42</u>	37 <u>42</u>	37 <u>42</u>	37 <u>42</u>	37 <u>42</u>	37 <u>42</u>	37 <u>42</u>	37 <u>42</u>	37 <u>42</u>	37 <u>42</u>	37 <u>42</u>
Units Per Building** *										10	N/A					
Max Lot Coverage**		5,000 ft ²	5%													
Open Space, Min. (%)**	0.20	0.50	0.95	0.20	0.20	0.20	0.20	0.20	0.20	.20	0.20	0.20	0.20	0.20	0.50	0.50
Minimum Street-front Lot Width										75'		100'	100'	100'		

Footnotes for Table 103.15.2

* Determined by the Director, based upon Habitat Analysis

** Subject to Table 106.16.1 "Open Space Requirements per Habitat Type"

*** Affordable dwelling units not subject to this limitation

**** Allocated densities for all zoning districts are subject to the following additional requirements:

- Salt marsh/buttonwood association wetlands that are either undisturbed or of high functional capacity as defined in Article 4, of Chapter 106 shall be assigned a density of 0.25 units per acre for the sole purpose of transferring the density out of these habitats.

- Submerged lands, salt ponds and mangrove wetlands shall not be assigned density for any purpose (i.e., allocated density = 0).

¹ The FAR for mixed-use developments may be increased to .75 if mitigated by the development of affordable/workforce housing is provided

² Density bonus limited to deed-restricted affordable housing as established in Article 1, "Affordable Housing" of Chapter 104.

³ Subject to the additional height restrictions of Article 5, Chapter 107.

⁴ Existing Single-Family Residences may be repaired, modified, or replaced. Individual vacant Lots within Blocks defined within the Plat subject to RL-C zoning may be built upon IF the sum of all Lots within an individual Block are over 90 percent developed with single family residences as of the date that DEO accepts the Ordinance.

⁵ This Footnote applies ONLY to properties and/or developed RV or Mobile Home sites which have been or would be recognized as having a Permanent RV structure, as defined in Policy 1-3.2.8 which are located in the Residential High or Mixed Use Commercial Land Use Categories or in other Zoning Districts as determined and reviewed on a case by case basis, Operable Road Ready RVs may be placed on the site of a Permanent RV once the Permanent RV structure is demolished and ONLY if it is determined that the property or site has retained its Transferable Building Right and the Right hasn't been previously transferred to another location within the City. Otherwise, said Permanent RV properties or sites will retain their Market Residential Building Right or allocation. Said Market Rate Building Rights may be retained on-site as Market Rate residential units with the redevelopment of a Florida Building Code compliant residential structure. If the Development Right is transferred, it shall only be transferred as an Affordable Building Right. Though an operable Road Ready RV may utilize Permanent RV properties or sites, it shall not be assumed that the site has a Transient Residential Unit which can be transferred as such.

- This provision shall sunset three (3) years after the effective date of this footnote, August 11, 2020, and shall not be available thereafter.
- This provision shall only be available to those individuals who chose to utilize this provision to occupy property in their individual ownership? no rental of the site or an associated Operable Road Ready RV is allowed under this provision as shall be enacted through the City LDRs.

(Ord. No. 2010-15, § 2, 1-11-2011; Ord. No. 2014-10, § 4, 7-8-2014; Ord. No. [2018-04](#), § 1, 7-10-2018; [Ord. No. 2019-09](#), § 3, 8-13-2019; [Ord. No. 2020-02](#), § 2, 8-11, 2020)

APPLICANT: City of Marathon

REQUEST: The ordinance amends chapter 103, article 3, "Use and Intensity Tables".

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 criteria and explanation of relevance to this proposed amendment are listed below:

A. The need and justification for the change;

Change of **Table 103.15.1**, Uses by Zoning District to permit beekeeping in all zoning districts. This change will update City Code to comply with FL Stat § 586.10 (2014) that preempts local government ordinances on the placement and location of registered inspected managed honeybee colonies by allowing beekeeping in all zoning districts.

Change of **Table 103.15.1**, Uses by Zoning District to permit vacation rentals in C-NA zoning districts. This change will make vacation rentals consistently allowed with a license in all zoning districts where single family dwellings are allowed except for I-G and I-M where single family dwelling are restricted to affordable units which cannot be vacation rentals.

Change of **Table 103.15.1**, Uses by Zoning District to make bars and taverns a Conditional Use in IG and IM. A restaurant is permitted as of right in these zoning districts, which would fall under COP license types, and Convenience stores are P as well, and would fall under package sales (APS). So conditional use would be consistent for a COP license.

Change of building height to 42 in **Table 103.15.2, DENSITY, INTENSITY AND DIMENSIONS FOR ZONING DISTRICTS**. This change will make the table consistent with code changes made by Ordinances 2019-12 & 2019-13. This changed the maximum height of structures to 42 feet to raise the height limitations to provide some flexibility in building construction under the constraint that many Base Flood Elevations have increased from the current adopted maps in the National Flood Insurance Program (NFIP), “Working Draft Flood Insurance Rate Maps (FIRM).

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

The proposed text amendment is consistent with the Comprehensive Plan and LDRs providing compliance with State law and consistency within current City code.

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 further the purposes of the LDRs and other City Codes, regulations and actions designed to implement the Comprehensive Plan by code consistency.

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.

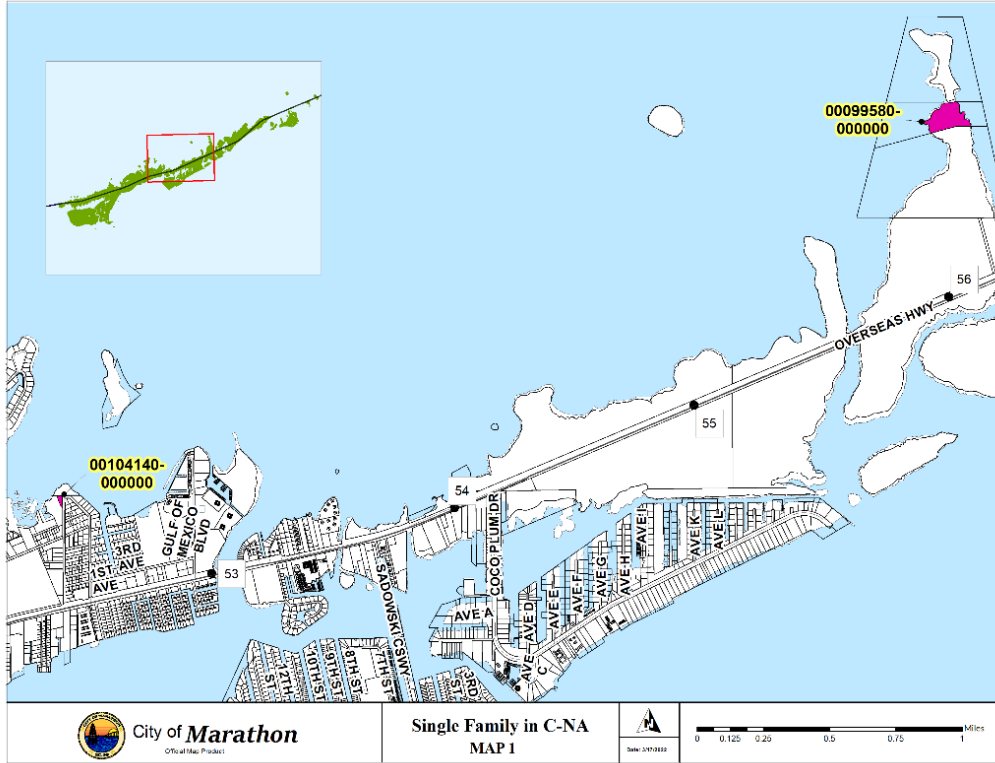
RECOMMENDATION:

Staff recommends APPROVAL.

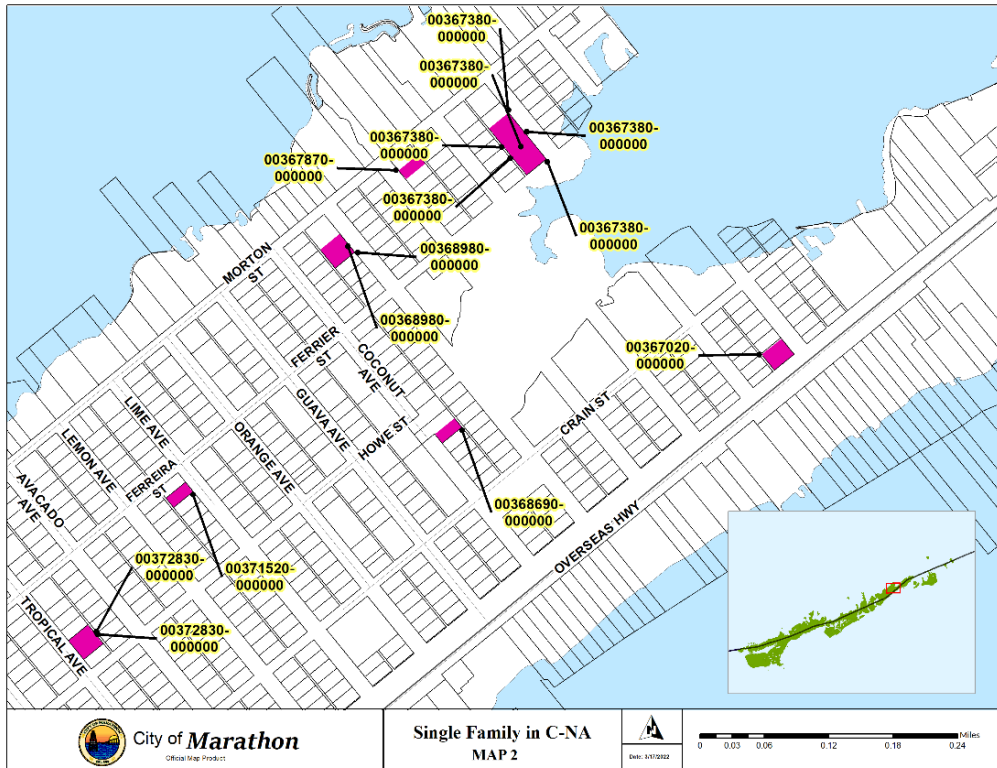
Exhibit A:

Affected parcels for Vacation Rental changes in C-NA

Map 1



Map 2



Map 3

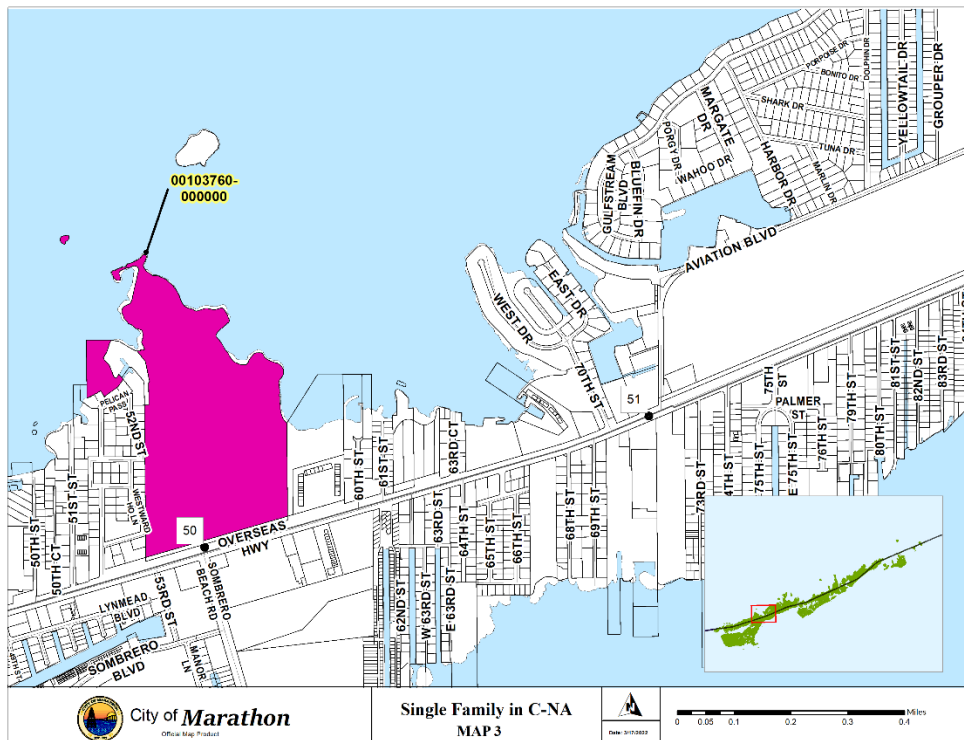


Exhibit B
Parcels Affected by VR change
(10 parcels including Crane Point)

00368980-000000
00367380-000000
00367870-000000
00368690-000000
00372830-000000
00367020-000000
00099580-000000
00104140-000000
00371520-000000
00103760-000000 (Crane Point)

Sponsored by: Garrett
Introduction Date:
Public Hearing Dates:
Enactment date:

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

ORDINANCE 2022-XXX, OF THE CITY OF MARATHON, FLORIDA, AMENDING CHAPTER 103 “ZONING DISTRICTS”, ARTICLE 3 “USE AND INTENSITY TABLES”, UPDATING TABLE 103.15.1 “USES BY ZONING DISTRICT”, UPDATING TABLE 103.15.2 “DENSITY, INTENSITY AND DIMENSIONS FOR ZONING DISTRICTS”; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES, CITY OF MARATHON, FLORIDA; AND PROVIDING AN EFFECTIVE DATE.

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, the City of Marathon is located within an Area of Critical State Concern (ACSC), pursuant to Sections 380.05 and 380.0552, Florida Statutes, hereinafter referred to the “Keys ACSCs;” and

WHEREAS, Keys’ Local Governments have adopted state-mandated Comprehensive Plans and Land Development Regulations pursuant to both Chapters 163 and 380.055, Florida Statutes, which have been approved by the State, as required by law, and;

WHEREAS, Chapter 166, *Florida Statutes*, grants the City of Marathon (the “City”) broad municipal home rule powers to provide for the health, safety and welfare of its residents, business owners and visitors by enacting business regulations for the protection of the public; and

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

Section 103.15. - Standards.

- A. *Uses*: Certain uses, whether permitted as of right, limited, accessory or conditional uses may affect adjacent properties, the neighborhood, or community, even if the site planning

and development standards of the applicable zoning district are satisfied. Uses in bold on Table 103.15.1 have special criteria contained in Article 1 of Chapter 104 "Specific Use Regulations", which are intended to mitigate potential problems and hazards, and to ensure consistency with the Plan.

- B. *Zoning Districts:* The density, intensity, setbacks, and dimensional standards relative to each parcel are subject to the limitations of the zoning district as reflected in Tables 103.15.1 and 103.15.2.

Table 103.15.1
Uses by Zoning District

ZONING DISTRICT	C-NA	C-OI	RL-C	RL	RM	RM-1	RM-2	R-MH	RH	MU	MU-M*	I-G	I-M*	A	P	PR
Bars and taverns— Section 104.06										C	C	<u>C</u>	<u>C</u>			

Beekeeping****	P	P	<u>P</u>	P	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>

Single-family dwellings (6 Bedrooms or less)	P	P	P***	P	P	P	P	P	P	P	P	P	P			A

Vacation Rental units	<u>L</u>	L	L	L	L	L	L	L	L	L	L					

*Permitted uses are limited to those which are related to the maritime industry

**Submerged Mooring Facilities may only be permitted in association with upland areas whose zoning is shown as having a "C"

***Existing Single-Family Residences may be repaired, modified, or replaced. Individual vacant Lots within Blocks defined within the Plat subject to RL-C zoning may be built upon IF the sum of all Lots within an individual Block are over 90 percent developed with single family residences as of the date that DEO accepts the Ordinance.

**** [Limited to Florida Registered Beekeepers with the Florida Department of Agriculture and Consumer Services \(FDACS\).](#)

Note: Uses may be subject to additional requirements, see Chapter 104, Specific Use Regulations.

(Ord. No. 2014-19, § 2, 10-28-2014; Ord. No. 2014-08, § 2, 6-24-2014; Ord. No. [2015-02](#), § 7, 6-16-2015; Ord. No. [2017-04](#), § 2, 8-8-2017; Ord. No. [2017-07](#), § 2, 11-14-2017; [Ord. No. 2019-01](#), § 3, 1-22-2019; [Ord. No. 2019-09](#), § 2, 8-13-2019; [Ord. No. 2019-14](#), § 3, 1-14-2020)

Table 103.15.2
DENSITY, INTENSITY AND DIMENSIONS FOR ZONING DISTRICTS

	A	C-NA	C-OI	I-G	I-M	MU	MU-M	P	PR	RH	R-MH	RM	RM-1	RM-2	RL	RL-C
Density Range (units per acre) ****		.25	0.1	5— 10	5— 10	6— 15	6— 15	10— 25	1/4ac	8— 25	8— 25	5— 10	4	5	0.5	.25 ⁴
Market Rate (maximum)		.25	0.1			6	6		.25	8	8	5	4	5	0.5	0.25
Affordable (maximum) ³		.25	0.1	5-10	5-10	15	15	10-25	.25	15-25	25	10	4	5	0.5	.25
Transient						5-25		3-25	10	0	0	0	0	0	0	0
Min lot area per unit (square feet)																
Market Rate		4 acres	10 acres			7,260	7,260		4 acres	5,445	5,445	8,712	10,000	8,712	2 acre	4 acres
Affordable		4 acres	10 acres	4,356	4,356	2,904	2,904	1,742	4 acres	1,742	1,742	4,356	10,000	8,712	2 acre	4 acres
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Setbacks																
Front, min	200	25	25	10	10	0-30	20	15	15	10	10	20	20	20	25	25
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Side 1, min		10	10			0-10	10			5	5	5	10	10	10	10
Interior Side Min	200			5	5	10		5	5				10	5		
Side 2, min		10	10			0-10	10			5	5	5	10	10	10	10
Street Side Min	200			5	5	0-5		5	5							
Height Limit³	37 <u>42</u>	37 <u>42</u>	37 <u>42</u>	37 <u>42</u>	37 <u>42</u>	37 <u>42</u>	37 <u>42</u>	37 <u>42</u>	37 <u>42</u>	37 <u>42</u>	37 <u>42</u>	37 <u>42</u>	37 <u>42</u>	37 <u>42</u>	37 <u>42</u>	37 <u>42</u>
Units Per Building***										10	N/A					
Max Lot Coverage **		5,000 ft ²	5%													
Open Space, Min. (%)**	0.20	0.50	0.95	0.20	0.20	0.20	0.20	0.20	0.20	.20	0.20	0.20	0.20	0.20	0.50	0.50
Minimum Street-front Lot Width										75'		100'	100'	100'		

Footnotes for Table 103.15.2

* Determined by the Director, based upon Habitat Analysis

** Subject to Table 106.16.1 "Open Space Requirements per Habitat Type"

*** Affordable dwelling units not subject to this limitation

**** Allocated densities for all zoning districts are subject to the following additional requirements:

- Salt marsh/buttonwood association wetlands that are either undisturbed or of high functional capacity as defined in Article 4, of Chapter 106 shall be assigned a density of 0.25 units per acre for the sole purpose of transferring the density out of these habitats.

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³ Subject to the additional height restrictions of Article 5, Chapter 107.

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⁵ This Footnote applies ONLY to properties and/or developed RV or Mobile Home sites which have been or would be recognized as having a Permanent RV structure, as defined in Policy 1-3.2.8 which are located in the Residential High or Mixed Use Commercial Land Use Categories or in other Zoning Districts as determined and reviewed on a case by case basis, Operable Road Ready RVs may be placed on the site of a Permanent RV once the Permanent RV structure is demolished and ONLY if it is determined that the property or site has retained its Transferable Building Right and the Right hasn't been previously transferred to another location within the City. Otherwise, said Permanent RV properties or sites will retain their Market Residential Building Right or allocation. Said Market Rate Building Rights may be retained on-site as Market Rate residential units with the redevelopment of a Florida Building Code compliant residential structure. If the Development Right is transferred, it shall only be transferred as an Affordable Building Right. Though an operable Road Ready RV may utilize Permanent RV properties or sites, it shall not be assumed that the site has a Transient Residential Unit which can be transferred as such.

a. This provision shall sunset three (3) years after the effective date of this footnote, August 11, 2020, and shall not be available thereafter.

b. This provision shall only be available to those individuals who chose to utilize this provision to occupy property in their individual ownership? no rental of the site or an associated Operable Road Ready RV is allowed under this provision as shall be enacted through the City LDRs.

(Ord. No. 2010-15, § 2, 1-11-2011; Ord. No. 2014-10, § 4, 7-8-2014; Ord. No. [2018-04](#), § 1, 7-10-2018; [Ord. No. 2019-09](#), § 3, 8-13-2019; [Ord. No. 2020-02](#), § 2, 8-11, 2020)

SECTION 3. All other existing provisions of Appendix A, "Land Development Regulations," Chapter 102, of the Code of Ordinance of the City of Marathon, Florida shall be renumbered accordingly.

SECTION 4. 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 5. 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 6. It is the intention of the City Council, and it is hereby ordained the provisions of this Ordinance shall become and be made part of the Marathon Code, that sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions, and that the word “Ordinance” shall be changed to “Section” or other appropriate word.

SECTION 7. 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 8. This Ordinance shall be effective immediately upon approval by the State Department of Economic Opportunity pursuant to Chapter 380, Florida Statutes.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS Xth DAY OF X, 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

DRAFT



PLANNING COMMISSION AGENDA STATEMENT

Meeting Date: April 18, 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 17 “Appeals”, Amending Section 102.92 “Appeal Period” And Section 102.93 “Applicability” To Address Timeframes, Of The City Of Marathon Land Development Regulations; 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 proposed ordinance has been proposed to modify language in Chapter 102, Sections 102.92, “Applicability” and 102.93, “Applicability” provide that a de novo hearing shall be conducted upon appeal of a decision by the Planning Commission, of the City of Marathon Land Development Regulations

Section 102.92. Appeal Period.

An appeal of the decision of the administrative official or body may be made within 30 ~~working~~ days from the date of such decision. If filed, an appeal stays any further action on the permit until final resolution of the appeal, unless the administrative official or body, whose action is the subject of the appeal, certifies in writing that the stay poses an imminent peril to life or property.

Section 102.93. Applicability.

Any appealable decision may be appealed by an applicant, the City, if affected, or any aggrieved party, including neighborhood, community and civic associations, whose name appears in the record of the appropriate person or body from which the appeal is made by filing with the Department a petition in a form prescribed by the Director and a written statement specifying in brief, concise language the grounds and reasons for requesting a reversal of the ruling made by the lower person or body together with a fee for the processing of the appeal, as provided by the Director as amended from time to time, within the 30 ~~working~~ days set forth in Section 102.92 above.

Purpose of Proposed Amendment:

The purpose of the amendment is to provide clear cut measures for the appeal of a Planning Commission decision through the concise and finite process of a de novo appeal hearing.

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 criteria and explanation of relevance to this proposed amendment are listed below:

A. The need and justification for the change;

The City of Marathon wishes to strengthen its regulations regarding the Appeals process defined in various sections of the LDRs.

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

The proposed text amendment is consistent with the Comprehensive providing for appropriate and adequate due process under Florida Law.

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 finite mechanism for the appeal of a decision of the Planning Commission.

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: April 18, 2022
Public Hearing Dates: April 18, 2022
City Council Hearing Date: May 10, 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 17 “APPEALS”, AMENDING SECTION 102.92 “APPEAL PERIOD” AND SECTION 102.93 “APPLICABILITY” TO ADDRESS TIMEFRAMES, OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS; 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 landscape regulations; 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 April 18, 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 follows:

Section 102.92. Appeal Period.

An appeal of the decision of the administrative official or body may be made within 30 ~~working~~ days from the date of such decision. If filed, an appeal stays any further action on the permit until final resolution of the appeal, unless the administrative official or body, whose action is the subject of the appeal, certifies in writing that the stay poses an imminent peril to life or property.

Section 102.93. Applicability.

Any appealable decision may be appealed by an applicant, the City, if affected, or any aggrieved party, including neighborhood, community and civic associations, whose name appears in the record of the appropriate person or body from which the appeal is made by filing with the Department a petition in a form prescribed by the Director and a written statement specifying in brief, concise language the grounds and reasons for requesting a reversal of the ruling made by the lower person or body together with a fee for the processing of the appeal, as provided by the Director as amended from time to time, within the 30 ~~working~~ days set forth in Section 102.92 above.

Section 102.95. Time Period for Hearing.

Within 45 working days of receipt of a complete appeal application, the Director shall schedule a public hearing before the PC or Council on the appeal.

Section 102.96. Notice of Hearing.

The public hearing on the appeal shall be noticed as required by Article 4 "Notice of Public Meetings and Hearings", of this chapter. The notice shall state that an appeal has been filed; describe the request being appealed; describe the lot, parcel, property, or areas that are the subject of the administrative permit; describe the final decision on the request; and note other pertinent information.

Section 102.97. Action by the Planning Commission or Council.

- A. Upon the taking of an appeal, the ruling body shall conduct a de novo hearing and shall consider the rationale for the decision of the administrative official or the Planning Commission. It may confirm, reverse, or modify the appealed action based upon its interpretation of the findings required and the evidence submitted. Any action by the Council shall be deemed final.
- B. Upon the timely filing of an application for appeal, the Director shall transmit to the Planning Commission or the City Council, as the case may be, the petition for appeal, any associated documents which may be submitted on appeal, the application and Director's recommendation, and the decision and record of the lower body or official.

- C. Upon the taking of an appeal, the City Council shall conduct a de novo hearing and shall consider whether the decision of the administrative official or the Planning Commission, as the case may be, should or should not be sustained or modified. By resolution, the appellate body shall either affirm, modify, or reverse the lower decision and such action shall be by a majority vote of all members present.

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 14th DAY OF JUNE 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

DRAFT

PLANNING COMMISSION AGENDA STATEMENT

Meeting Date: April 18, 2022
To: Planning Commission
From: Brian Shea, Planning Director

Agenda Item: An Ordinance Of The City Council Of The City Of Marathon, Marathon, Florida, Amending Chapter 104 “Specific Use Regulations”, Article 1 “General Provisions”, Amending Section 104.52 “Small Animal Shelter Or Animal Day Care”, Of The City Of Marathon Land Development Regulations; 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 proposed ordinance has been proposed to modify language in Chapter 104, Section 104.52, “Small Animal Shelter or Animal Day Care” that a de novo hearing shall be conducted upon appeal of a decision by the Planning Commission, of the City of Marathon Land Development Regulations

Sec. 104.52. Small Animal Shelter or Animal Day Care.

Private and public animal shelters may be allowed pursuant to Table 103.15.1, subject to the following standards:

A. Hours of operation, including times for feeding and use of outdoor areas by the animals, shall occur between 6 a.m. and 7 p.m.

B. No boarding of animals as a stand-alone commercial use shall be permitted.

C. Boarding of animals as a commercial use shall be permitted as accessory to a grooming

or dog training use.

Purpose of Proposed Amendment:

The purpose of the amendment is to provide clear cut measures for the appeal of a Planning Commission decision through the concise and finite process of a de novo appeal hearing.

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 criteria and explanation of relevance to this proposed amendment are listed below:

A. The need and justification for the change;

The City of Marathon wishes to address the inconsistency of table 103.51.1 regarding kennels that does not allow kennels in Section 104.52. Clearly the intent was not to allow kennels as the sole use of the business.

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

The proposed text amendment is consistent with the Comprehensive Plan and LDRs providing consistency within current City code.

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 further the purposes of the LDRs and other City Codes, regulations and actions designed to implement the Comprehensive Plan by code consistency.

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: April 18, 2022
Public Hearing Dates: April 18, 2022
May 10, 2022
Enactment Date: XXXX

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AMENDING CHAPTER 104 “SPECIFIC USE REGULATIONS”, ARTICLE 1 “GENERAL PROVISIONS”, AMENDING SECTION 104.52 “SMALL ANIMAL SHELTER OR ANIMAL DAY CARE”, OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS; 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 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, the City of Marathon is located within an Area of Critical State Concern (ACSC), pursuant to Sections 380.05 and 380.0552, Florida Statutes, hereinafter referred to the “Keys ACSCs”; and

WHEREAS, Keys’ Local Governments have adopted state-mandated Comprehensive Plans and Land Development Regulations pursuant to both Chapters 163 and 380.055, Florida Statutes, which have been approved by the State, as required by law, and;

WHEREAS, Chapter 166, *Florida Statutes*, grants the City of Marathon (the “City”) broad municipal home rule powers to provide for the health, safety and welfare of its residents, business owners and visitors by enacting business regulations for the protection of the public; 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 April 18, 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 substantially 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 CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are hereby confirmed and adopted.

Section 2. Section 104.52 of the Code of Ordinances, City of Marathon, Florida is hereby amended to read as follows:

Sec. 104.52. Small Animal Shelter or Animal Day Care.

Private and public animal shelters may be allowed pursuant to Table 103.15.1, subject to the following standards:

A. Hours of operation, including times for feeding and use of outdoor areas by the animals, shall occur between 6 a.m. and 7 p.m.

B. No boarding of animals as a stand-alone commercial use shall be permitted.

C. Boarding of animals as a commercial use shall be permitted as accessory to a grooming or dog training use.

Violations of this section of the Marathon Code may be enforced and are punishable in accordance with Section 1-7 and Chapter 10 of the Marathon Code, or as may otherwise be provided for by State law.

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

Section 4. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall 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. It is the intention of the City Council and it is hereby ordained the provisions of this Ordinance shall become and be made part of the Marathon Code, that sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 6. This Ordinance shall become effective immediately upon adoption on second reading.

ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS ____ DAY OF _____, 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:

City Attorney
Steven T. Williams