



**City of Marathon Planning Commission**  
**Monday June 26, 2023**  
**9805 Overseas Hwy**  
**City Hall Council Chambers**  
**5:30 PM**

1. **Call To Order**
  2. **Pledge Of Allegiance**
  3. **Roll Call**
  4. **Approval Of Minutes**
  5. **Quasi-Judicial Statement**
  6. **Items For Public Hearing**
  7. **Adjournment**
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5. Please be advised that some of the items on the agenda are quasi-judicial in nature. If you wish to give testimony on any item, please inform the Boards clerk by filling out an available sign-up form. An opportunity to speak will be made available after the applicant and staff have made their presentations on each item. All testimony, including public testimony and evidence, will be made under oath or affirmation. Additionally, all persons giving testimony may be subject to cross examination. If you refuse either to be cross examined or to be sworn your testimony will not be considered. The public will not be allowed to cross examine witnesses, but they can ask the Commission to ask questions on their behalf. Persons representing organizations must present evidence of their authority to speak for the organization.

**6. Items For Public Hearing**

1. Consideration Of A Request For A Conditional Use Permit For Ruth Ebert Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (Code) Entitled “Conditional Use Permits” To Convert A Triplex Into A Single Family Residential With 11 Bedrooms; Located At 213 S. Anglers Dr; Which Is Legally Described As Lot 38 Sombrero Anglers Club South Boot Key PB6-87, Monroe County, Florida; Having Real Estate Number 00355418-000500, Nearest Mile Marker 50.
2. An Ordinance Of The City Of Marathon, Florida, Amending Chapter 107, Article 8 Entitled “Landscaping” 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.
3. An Ordinance Of The City Of Marathon, Florida, Amending Chapter 107, Article 2 Entitled “Transfer Of Building Rights”, Specifically Section 107.17. Entitled “General Provisions”, 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.

4. An Ordinance By The City Of Marathon, Florida, Amending Chapter 108, Article 2 (“Nonconforming Structures”) By Deleting A Portion Of Section 108.15 Titled “Additional Standards For Nonconforming Sexually Oriented Businesses.”; Specifically, Subsection B Part 2 To Comport With Modern Constitutional Constraints; Providing For The Repeal Of All Ordinances Or Parts Thereof Found To Be In Conflict; Providing For Severability; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity After Final Adoption By The City Council; Providing For Inclusion In The Code Of Ordinances And Providing For An Effective Date.

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.)**



**City of Marathon Planning Commission  
Monday April 17, 2023  
9805 Overseas Hwy  
City Hall Council Chambers**

**MINUTES**

Sexton called the meeting of the Planning Commission to order on Monday April 17, 2023, at 5:30 pm.

In attendance: Planning Director Brian Shea, Attorney Steve Williams, Planner Amber Stonik, Planner Erin Dafoe, Admin Assistant Lorie Mullins, and members of the public.

The Pledge of Allegiance was recited.

The roll was called. Mark Senmartin-present; Mary Ann Royse-present; Mike Cinque-present; Andrew George-present; Matt Sexton-present.

Sexton called for an approval of the Minutes from the last meeting. Senmartin moved to approve. Royse seconded. The motion was approved 5-0.

**Item 1 was pulled by the applicant.** Consideration Of A Request For A Conditional Use Permit For Scott Ebert Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (Code) Entitled “Conditional Use Permits” To Covert A Triplex Into A Single Family Residential With 11 Bedrooms; Located At 213 S. Anglers Dr; Which Is Legally Described As Lot 38 Sombrero Anglers Club South Boot Key PB6-87, Monroe County, Florida; Having Real Estate Number 00355418-000500, Nearest Mile Marker 50.

**Item 2** was read into the record along with Item 3. An Ordinance Of The City Of Marathon, Florida, Amending The City Of Marathon’s Comprehensive Plan Modifying Chapter One, “Future Land Use Element,” And Intending To Modify Policy 1-3.5.16, “Program For Transfer Of Density And Building Rights (TDR’s And TBR’s)”, 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.

-And-

**Item 3** An Ordinance Of The City Of Marathon, Florida Amending Chapter 107, Article 2, Entitled “Transfer Of Building Rights”, And Intending To Modify Section 107.15 Entitled “Site Criteria”; Providing For The Repeal Of All Code Provisions And Ordinances Inconsistent With This Ordinance; Providing For Severability; And Providing For Inclusion In The Code Of Ordinances, City Of Marathon, Florida; And Providing For An Effective Date.

Shea presented the items with the use of visual aids.

These items are changing language for clarity regarding TBRs and reduced density.

Sexton made a motion to approve Item 2. Royse seconded.

There were no public speakers.

The roll was called. The item was approved 5-0.

Royse moved to approve Item 3. Senmartin seconded. The roll was called. The item was approved 5-0.

**Item 4** was read into the record along with Item 5. An Ordinance Of The City Of Marathon, Florida, Amending The City Of Marathon's Comprehensive Plan Modifying Chapter One, "Future Land Use Element," And Intending To Modify Policy 1-3.4.5, "Protect Established Live-Aboard Vessels", 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.

-And-

**Item 5** An Ordinance Of The City Of Marathon, Florida Amending Chapter 107, Article 2, Entitled "Transfer Of Building Rights", And Intending To Modify Section 107.14 Entitled "Types Of Transfers"; Providing For The Repeal Of All Code Provisions And Ordinances Inconsistent With This Ordinance; Providing For Severability; And Providing For Inclusion In The Code Of Ordinances, City Of Marathon, Florida; And Providing For An Effective Date.

Shea presented the items.

These items are language clean-up and will be a tracking mechanism for liveaboards and floating structures.

Sexton opened the meeting to public speakers:

Jan O'Malley asked if a liveaboard marina could convert to a motel. Shea responded that there is one motel in Marathon. They went through a process to establish the units are floating structures and that those rights could come upland. This was done prior to the code change and is still in effect. If it is a liveaboard marina there should be liveaboard vessels, according to code, and if not, it would be followed up via the Code Dept.

Liveaboard vessels cannot be vacation rentals.

Cinque recused himself.

Royse moved to approve Item 4. Sexton seconded. The roll was called. The item was approved 4-0.

Royse moved to approve Item 5 with a grammatical revision to the sentence:

**In no instance shall the (transfer of the) liveaboard right (operate) be entitled to transfer any density, intensity or building rights to any upland portion of the property.**

Royse asked that Attorney Williams review and reword to make sense.

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

Motion and second to adjourn at 5:58 pm.

ATTEST:

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Matt Sexton-Planning Commissioner Chair

ATTEST:

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Lorie Mullins-Admin Assistant  
Planning Department

DRAFT

**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.

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PLANNING COMMISSION AGENDA STATEMENT



**Meeting Date:** June 26, 2023  
**To:** Planning Commission  
**From:** Amber Stonik, Planning Associate

**Agenda Item:** Consideration Of A Request For A Conditional Use Permit For Ruth Ebert Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (Code) Entitled “Conditional Use Permits” to convert a triplex into a single family residential with 11 bedrooms; Located at 213 S. Anglers Dr; Which Is Legally Described As Lot 38 Sombrero Anglers Club South Boot Key PB6-87, Monroe County, Florida; Having Real Estate Number 00355418-000500, Nearest Mile Marker 50

**APPLICANT/ OWNER:** Ruth Ebert

**AGENT:** Chad Neller

**LOCATION:** The project site is located on one parcel at 213 S ANGLERS Dr MARATHON, nearest mile marker 50. See Figure 1.

**Figure 1: Project Site**



**REQUEST:** Conditional Use Approval for development of the subject property having real estate number 00355418-000500 to convert a triplex into one single family dwelling with 11 bedrooms and 11 bathrooms.

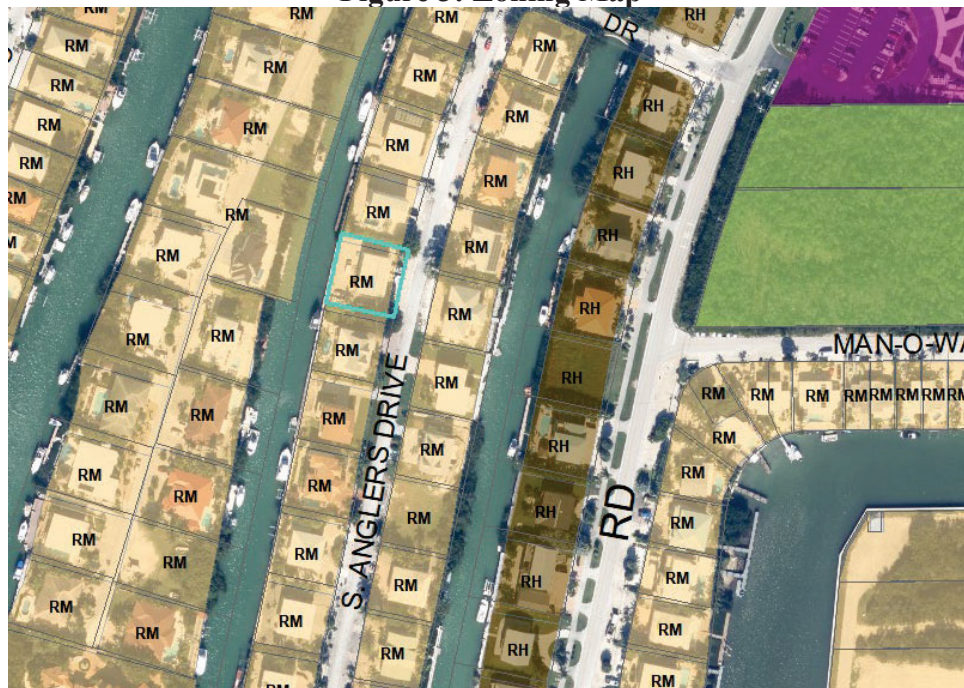
**FUTURE LAND USE MAP DESIGNATION:** Residential Medium (RM).

**Figure 2: Future Land Use Map**



**ZONING MAP DESIGNATION:** Residential Medium (RM).

**Figure 3: Zoning Map**



**LOT SIZE:**

Total acreage: 10,137 sq feet

**SURROUNDING ZONING AND USES:**

	<u>Zoning</u>	<u>Use</u>
<b>North</b>	Residential Medium	Single family residential
<b>East</b>	Residential Medium	Single family residential
<b>South</b>	Residential Medium	Single family residential
<b>West</b>	Residential Medium	Single family residential

**EXISTING CONDITIONS:**

The project site consists of one parcel having the Real Estate Number 00355418-000500. This parcel is currently a triplex.

**PROPOSED REDEVELOPMENT:**

Residential Units:                1 residential dwelling with 11 bedrooms and 11 bathrooms.

The residence the building footprint will increase from 4,176 sq ft to 7,295 sq ft.

**BACKGROUND:**

The proposed project is the conversion of a triplex into an 11-bedroom and 11-bathroom single family dwelling in the Residential medium zoning classification. This report addresses the Conditional Use application. **All conditions of the Conditional Use Permit approval will have to be met before any building permit will be approved.** See Attachment A.

**EVALUATION FOR COMPLIANCE WITH THE LAND DEVELOPMENT REGULATIONS:**

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

**CRITERIA**

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

The proposed redevelopment project is located within the Residential Medium (RM) Zoning District. Per Chapter 103, Article 2, Section 103.12 of the Land Development Regulations, the district is designed to “is intended to establish areas of low- to medium-density residential uses characterized principally by single-family detached and two-family dwellings, designated within the Residential



Medium (RM) future land use category on the Future Land Use Map (FLUM).”

The proposed project consists of the redevelopment of an existing residential use and is consistent with the Residential Medium District. Section 103.15 establishes whether specific uses are allowed as of right, limited, accessory or conditional uses, through Table 103.15.2. That table shows that single single-family dwellings of 7 bedrooms or more are allowed as Conditional Uses in the RM district. Conditional Use review is intended to allow a broader view of the potential impacts of a project on adjacent uses and on City concurrency related resources such as road capacity, solid waste, sewer, and potable water availability.

Table 103.15.2 in the Land Development Regulations establishes constraints on density and intensity allowed in the RM district based on the types of uses proposed. The project as proposed meets the basic definition of development in the RM zoning district and meets the density constraints imposed on the type of proposed use.

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

The proposed project is located within the Residential Medium Future Land Use District. Policy 1-3.1.4 of the City of Marathon Comprehensive Plan states that the “principal purpose of the Residential Medium future land use category is to provide for medium-density single-family, residential development. The Residential Medium future land use category is characterized by predominantly compact development on lots with disturbed or scarified vegetation and areas that are appropriate for infill development and that are served by existing infrastructure.”

The proposed project will expand the existing triplex building to create a single-family dwelling with 11 bedrooms and 11 bathrooms. Existing land use patterns are residential to the north, south, west, and east of the property.

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

The proposed use is a continuation of residential use which has not had any known impact on the health, safety, and welfare of the public.

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

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

The subject area contains no area recognized as possible habitat for a state or federally listed animal species. Standard permit conditions in regard to flood and stormwater will be applied.

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

- Must comply with FEMA flood requirements. Structures not above base flood level are subject to the 50% rule. No permits will be issued that do not meet FEMA requirements.

- The following need to be addressed during the building permit process for plans to be approved: 1. Existing topographic information, including the areas outside the boundary and existing road shall be shown on the proposed site plan. 2. A proposed grading plan shall be shown on the plans to be submitted for permitting. 3. Swale volume calculations shall be shown on the plans. 4. Any work in the R/W, including gravel drives, shall be clearly shown on the plans and a R/W permit is required.

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

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

Ingress and egress to the property is being provided through the current access driveway onto S. Anglers Dr. The trip generation analysis shows that proposed use will generate 9 trips per weekday. The current triplex units generate 18 trips per weekday.

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

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

Section 104.51.1. Parking space needs analysis. The City will require a minimum of one (1) parking space per bedroom unless otherwise justified and validated by the Conditional Use Permit applicant.

The proposed 11-bedroom single family dwelling will require 11 parking spaces. The applicant proposes 11 parking spaces on site. See Attachment A.

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

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

The proposed use consists of continuation of current residential use. The proposed use will decrease current setback from neighboring property owners, but the new footprint will meet the required setbacks. Therefore, the proposed project should not have any adverse effect through noise, glare, or odors.

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

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

The proposed use will not require dumpsters.

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

**5. Utilities, with reference to location and availability;**

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

- **Wastewater:** The applicant must coordinate with the wastewater Utilities department for connection requirements.
- **Water:** The Florida Keys Aqueduct Authority already provides potable water for the triplex.
- **Solid Waste:** Marathon Garbage Service will provide solid waste disposal.
- **Surface Water:** The applicant has provided stormwater design information suitable for the Conditional Use application review which demonstrates compliance with City standards. However, a final stormwater plan will be required for building permit issuance.
- **Recreation and Open Space:** This development will have a de minimus impact on recreation and open space.
- **Roadways:** The applicant is developing the site with a lower density than was contained within the triplex; however, a traffic analysis was completed to analyze the impact on transportation facilities.
- **Educational Facilities:** This redevelopment will have a de minimus impact on educational facilities since existing uses are replaced in kind.

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

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

The proposed conditional use will not alter the current screening, buffering, dimensions, or character of the property. Code states that one canopy tree is required for every 50 feet of linear street frontage.

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

- Submitted building plans must show that the site meets code requirements of one canopy tree for every 50 ft of linear street frontage.

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

No additional signage or exterior lighting is proposed to the property.

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

**8. Required yards and other open space;**

Table 106.16.1 specifies that property classified as Class III has a minimum 20% open space requirement.

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

- The submitted building permit application must show the 20% open space site requirement and that no more than 60% coverage of the 20 ft water buffer.
- The submitted building permit application must show that no part of the structure including stairs is located in the required site setbacks.

### 9. General compatibility with surrounding properties;

The proposed use is as a single family 11-bedroom and 11-bathroom dwelling. Adjacent uses include single family residential dwellings. The use will increase the current footprint from 4,176 sq ft to 7,295 sq ft. Traditionally, single-family residential use is compatible with surrounding single family uses. However, based on Monroe County Property Appraiser data no residence within 100 ft of the subject parcel has more than 4 bedrooms. As the structure currently exists, it is a nonconforming triplex. As a triplex, it does not meet community character, but the conversion to a single-family use would normally assuage this concern. The difference here is that the single-family use nearly triples the four-bedroom community character. The number of existing bedrooms within the triplex currently totals seven bedrooms. This number of bedrooms as a single-family would trigger conditional use approval. The proposed use is compatible, but the *scale* of the use may not be compatible with the neighborhood character. Conversely, the existing use is not compatible with the neighborhood character, but the scale of the use would be nearly consistent with a typical conditional use approval.



Any approval for compliance should be tempered with the fact that the applicant may apply for and obtain permits to have six bedrooms in each of the units in the triplex without conditional use

approval. With the ability to vacation rent a unit at two people per bedroom, plus an additional two, this could amount to 24 people overnight for the triplex. As the 11-bedroom single-family under the same regulations, the same 24 people overnight is achieved.

By appropriately conditioning the approval, City Council has the ability to ensure a level of compliance with community character that is not achievable with projects permitted as of right.

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

Existing residential use to remain residential.

Section 104.51.1. Single-family dwellings (7 Bedrooms or more) require the following conditions.

1. Wastewater Flow Calculations.

a. Residences with six (6) six bedrooms or less will be assumed to equate to one (1) Equivalent Dwelling Unit (EDU) at 167 gallons per day. System development and connection charges, as well as monthly base and flow charges will accrue and be billed as a single-family residence.

b. Residences with seven (7) bedrooms or more will be assessed based on a calculation of average wastewater flows developed and provided by a qualified wastewater engineer. Such wastewater flow will be calculated into the one-time System Development and Connection charges and be billed accordingly.

2. Parking space needs analysis. The City will require a minimum of one (1) parking space per bedroom unless otherwise justified and validated by the Conditional Use Permit applicant. One parking spot is being provided for each bedroom for a total of 11 parking spots.

3. A Traffic Study prepared by a licensed traffic engineer. A traffic study was prepared by a licensed traffic engineer and submitted with the application.

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

**CONCLUSION:**

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

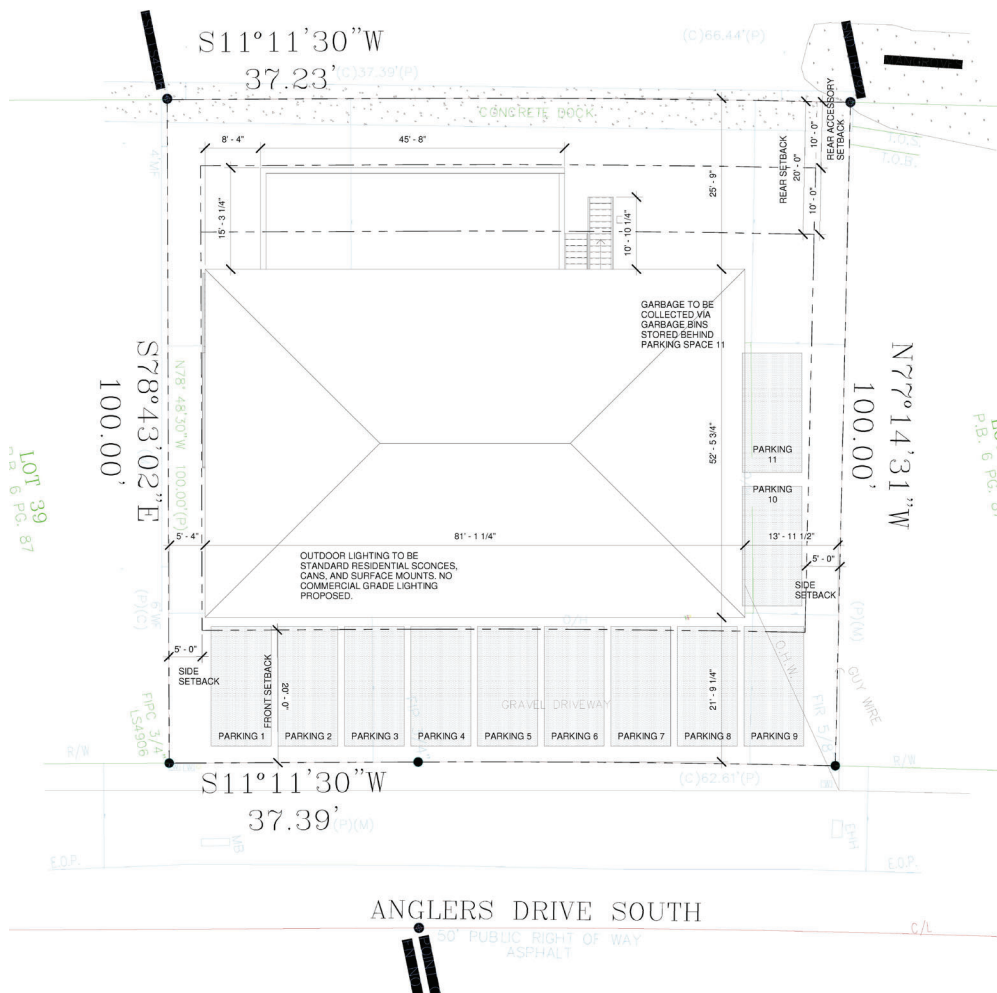
**RECOMMENDATION:**

Staff recommends approval of the Conditional Use permit application based on the proposed use of an 11-bedroom and 11-bathroom single family dwelling with specific conditions to ensure community character.

#### Conditions and Limitations of Approval

- Must meet NFPA1 and NFPA 101 requirements.
- The applicant will obtain City approval for wastewater management through the City's Wastewater Utility; Residences with seven (7) bedrooms or more will be assessed based on a calculation of average wastewater flows developed and provided by a qualified wastewater engineer. Such wastewater flow will be calculated into the one-time System Development and Connection charges and be billed accordingly.
- Must comply with FEMA flood requirements. Structures not above base flood level are subject to the 50% rule. No permits will be issued that do not meet FEMA requirements.
- The following need to be addressed during the building permit process for plans to be approved: 1. Existing topographic information, including the areas outside the boundary and existing road shall be shown on the proposed site plan. 2. A proposed grading plan shall be shown on the plans to be submitted for permitting. 3. Swale volume calculations shall be shown on the plans. 4. Any work in the Right of Way, including gravel drives, shall be clearly shown on the plans and a Right of Way permit is required.
- Submitted building plans must show that the site meets code requirements of one canopy tree for every 50 ft of linear street frontage.
- The submitted building permit application must show that no part of the structure including stairs is located in the required site setbacks.
- The submitted building permit application must show the 20% open space site requirement and that more than 60% coverage of the 20 ft water buffer.
- The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.

**Attachments:**  
Attachment A: Proposed Site Plan



**May 4, 2023**

**Marathon Planning Commission  
Marathon City Council  
City Manager**

**Re: 213 Anglers Dr South, Tri Plex**

**We are Jack and Jackie Burley of 212 Anglers Dr and wish to comment on the application for a conditional use permit for 213 Anglers Dr (tri plex). We are opposed as presented.**

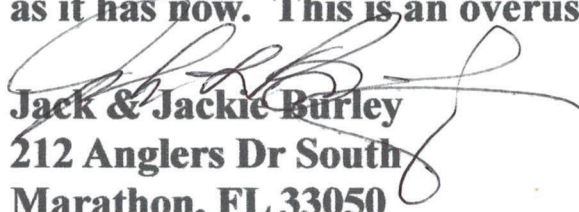
**The application requests a conditional use permit for 11 bedrooms in this Tri Plex .**

**This property currently contains 3 apartments with a total of 6 bedrooms. The application is for a vacation rental with 11 bedrooms between two other vacation rental properties and across the street from a third vacation rental, creating a total of 24 bedrooms within 300 ft.**

**This creates a traffic congestion, and over use of the area including sewer and water, as renters typically arrive mid day Saturdays, and leave the next.**

**Parking is a problem as renters typically have boat trailers as well.**

**This request should be reduced to no more than 6 rental bedrooms as it has now. This is an overuse of the area.**

  
**Jack & Jackie Burley  
212 Anglers Dr South  
Marathon, FL 33050  
305-743-4161**



**From:** [Tom Norton](#)  
**To:** [Planning](#)  
**Cc:** ["Michele Norton"](#)  
**Subject:** 213 S. Angler"s  
**Date:** Friday, May 12, 2023 11:25:26 AM

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TO: Marathon Florida Planning Department and Commission

Topic : Request for Conditional Use Permit to convert a tri-plex to an 11 Bedroom Single home

Hello, my name is Tom Norton. My wife Michele and I own a residence at 2 Ibis Lane. We have been notified by this depart of the above referenced request.

I would like to express my concern that an 11 bedroom home is clearly designed to be a rental unit. The contemplated structure will function as a "boutique hotel" in a neighborhood of predominantly single family homes.

The potential number of vehicles associated with this property will likely pose an inconvenience to neighboring residence. Vehicles likely will be parked on both side of the street potentially posing a hazard to emergency vehicles.

Of course, noise from a group that could well exceed 30+ people is a concern. In conclusion, a property of this size does not seem compatible with a quiet, predominantly single family neighborhood.

Sincerely,

Tom & Michele Norton  
2 Ibis Lane,

Marathon, FL  
33050

**From:** [William Thomas](#)  
**To:** [Lorie Mullins](#)  
**Subject:** 213 S Anglers 5\_16\_23.pdf  
**Date:** Wednesday, May 24, 2023 2:08:13 PM  
**Attachments:** [213 S Anglers 5\\_16\\_23.pdf](#)

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Lorie

I would like to add my 100percent agreement with the letter below.

Please insure that the city manager, planning commission and city council are aware of my agreement with the Sympson's position on this matter

Thank you for your help

Rosemary Thomas  
204 Anglers drive south

Sent from my iPhone

boat traffic down the adjacent canal in the event that multiple boats are housed at an 11-bedroom house. Many tenants are ignorant of safe boat handling, and general canal courtesy, including the disruption caused by loud noise, and the damage caused by generation of wakes. Besides kayakers and swimmers, our canal often houses manatees, including infants, and even moderate speed kills. We have justifiable concerns over impact to our aging water system. As recently experienced, we all know it is over-stressed. We also have concerns about an over-sized house being secured in a timely fashion, including storage of outdoor items and emergency landscaping, in order to protect neighbors before a hurricane. Additionally, evacuation times in the county are something we all need to consider. Population density is always a factor. Although we have had some difficulties with cleanliness of the property in the past, we do think it is a shame to lose three long-term apartments when there is so little else available for our working citizens. We most certainly hope that planning and city officials will look at adverse impact and rule against the 11-bedroom request. We are sorry but we cannot attend the planning meeting, but we will attend the city council discussion. Feel free to question us at any time

Respectfully,

Steven Sabat Steven Sabat

Edith Sabat Edith Sabat

(447) Gardiners Ave Levittown, NY 11756  
214 Anglers Drive South, Marthau, Fl  
33050

L 33050-2401

8-0005 property 00  
tion: 213 S. Anglers Drive

Commission and Marathon City Council

4/5/2023, we expressed numerous concerns related to the development of an 11-bedroom home at 213 S. Anglers Drive. The original request was by Scott Ebert, but now is by Ruth Ebert. In any case, we thank Patrick Ebert for his presentation about the proposal, but our concerns have really not been answered.

The traffic flow study is flawed. There is no reasoned way that a property housing three families, coming from a three-family home to a single-family home, with no allowances for the size of the "family". It would be apt to use ITE tables presumably available for hotel usage, which should logically take into account the available rooms. Although the evaluator is referring to improving the accuracy of traffic studies in multi-family dwellings, please observe the following quote from the traffic study appendix, and consider its applicability to the current request: "It is expected that the number of bedrooms and number of residents are likely to exceed the trips generated by a residential site."

It is also calculated that 11 usable parking spaces will fit and be used as shown in the designs presented. It was assumed that two of the spaces would be for compact cars. This is wrong-headed thinking since Keys vacationers are likely to arrive in SUVs or trucks capable of towing boats. In addition to cars, multiple boat trailers are likely to arrive, and trailer parking capacity was glossed over.

Since no measurements were given, so we really couldn't be sure that all the parking would be provided entirely on the premises. We wish to make the point that parking on the right of way is NOT standard on a residential street, and also note that cars parking behind each other would definitely impinge on the right of way (the current configuration is demonstrating a quite likely but unacceptable configuration.)

It is also unclear as to the size of the building. Per the traffic study, "There will be no change to the footprint or the overall floor area". Yet the plans we saw show only five feet of clearance on the south side of the building, which is much less space than currently exists.

At the public hearing events, and given its age, we also wonder what data has been presented as to the structural integrity of the building.

In any way to question the water and sewer flow figures, but again, 22-24 occupants will outnumber the 11 currently housed at the triplex.

We emphasize these particular concerns, and thank you for listening.

We do not have rights, but current residents have rights too, and have the legitimate expectation that our property is protected. To quote from Patrick's PowerPoint/city code: "Conditional uses shall not be allowed if the use would create a nuisance, traffic congestion, a threat to the public health, safety or welfare of the community, or a violation of any provision of the City Code, state law, rule or regulation." We contend that this 11-bedroom building is inconsistent with the size of other homes on equal size lots on South Anglers, and that a building of this size will create traffic, marine, noise, and other issues that will destroy the quiet residential nature of our neighborhood. We do not allow it.

OWNER 217 Anglers DR S.  
Steven Sabat  
Edith Sabat

Kathryn B. Sympson

May 16, 2023  
William R. and Kathryn B. Sympson  
221 South Anglers Drive  
Marathon, FL 33050-2401

RE: 00355418-0005 property 00  
Project Location: 213 S. Anglers Drive

**TO: Planning Commission and Marathon City Council**

Per our letter of 4/5/2023, we expressed numerous concerns related to the development of an 11-bedroom home at 213 South Anglers Drive. The original request was by Scott Ebert, but now is by Ruth Ebert. In any case, we thank Patrick Stephens for his presentation about the proposal, but our concerns have really not been answered.

1. We feel that the traffic flow study is flawed. There is no reasoned way that a property housing three families, coming and going to work, could outnumber traffic generated by 22-24 people coming and going on vacation errands. The study compared a three-family home to a single-family home, with no allowances for the size of the "family". It would be much more apt to use ITE tables presumably available for hotel usage, which should logically take into account the number of available rooms. Although the evaluator is referring to improving the accuracy of traffic studies in multi-family residences, please observe the following quote from the traffic study appendix, and consider its applicability to this 11-bedroom request: "It is expected that the number of bedrooms and number of residents are likely correlated to the trips generated by a residential site."
2. We are skeptical that 11 usable parking spaces will fit and be used as shown in the designs presented. It was mentioned that two of the spaces would be for compact cars. This is wrong-headed thinking since Keys vacationers are much more likely to arrive in SUVs or trucks capable of towing boats. In addition to cars, multiple boat trailers are quite likely to arrive, and trailer parking capacity was glossed over.
3. I don't believe that measurements were given, so we really couldn't be sure that all the parking would be accommodated entirely on the premises. We wish to make the point that parking on the right of way is NOT standard practice on our street, and also note that cars parking behind each other would definitely impinge on the right of way. (See picture demonstrating a quite likely but unacceptable configuration.)
4. We are actually unclear as to the size of the building. Per the traffic study, "There will be no change to the building footprint or the overall floor area". Yet the plans we saw show only five foot of clearance on the south side of the building, which is much less space than currently exists.
5. In light of recent events, and given its age, we also wonder what data has been presented as to the structural soundness of the building.
6. We don't have any way to question the water and sewer flow figures, but again, 22-24 occupants well outnumber the density that has historically been housed at the triplex.

We wanted to reemphasize these particular concerns, and thank you for listening.

Property owners do have rights, but current residents have rights too, and have the legitimate expectation that our neighborhood will be protected. To quote from Patrick's PowerPoint/city code: "Conditional uses shall not be allowed where the conditional use would create a nuisance, traffic congestion, a threat to the public health, safety or welfare of the community or a violation of any provision of the City Code, state law, rule or regulation." We contend that this 11-bedroom request is inconsistent with the size of other homes on equal size lots on South Anglers, and that a building of that density will create traffic, marine, noise, and other issues that will destroy the quiet residential nature of our neighborhood. Please do not allow it.

Respectfully,

William R. Sympson, Kathryn B. Sympson

April 5, 2023  
William R. and Kathryn B. Sympson  
221 South Anglers Drive  
Marathon, FL 33050-2401

RE: 00355418-000500  
Project Location: 213 S. Anglers Drive

TO: Planning Commission and Marathon City Council

As neighbors to this proposed project, we must register our objections. A request for 11 bedrooms in a single-family home is a clear sign that an over-sized vacation rental is planned. We have had an exceptional number of negative experiences with other such properties nearby and can't help but be fearful. Not counting the triplex in question, 16 properties on South Anglers are non-renting, 7 are vacation renting. Our concerns and comments are elaborated below.

House 213 is on a lot that is approximately ¼ acre, consistent with the size of all other lots on the street. It is not an over-sized lot. Any dwelling on this lot should be consistent with the size and density of others on the street.

This is a low-traffic, quiet residential street. The street dead ends; there is only one entrance/exit. Adverse effects on traffic flow are an important concern. Streets are commonly blocked by cars, trucks and boat trailers during the ingress/egress of tenants occupying rentals. The more occupants, the more problems.

Parking must be considered. Eleven bedrooms could theoretically translate into 22+ persons, and 11+ vehicles. There is no room on the property for that many vehicles, and they must not be allowed to park on or otherwise block the street. City, Fire Marshall and other agency rules for maximum occupancy of residences need to be established so as not to endanger other properties, and the maximum numbers of vehicles on the property must be controlled.

Parking of and congestion due to commercial vehicles during demolition and construction is a corollary concern, as is keeping the street clean of tire-damaging items.

Noise pollution is a major concern. The more occupants allowed, the more likelihood of excess noise daytime as well as after hours. It is a shame to have to disturb our law enforcement officers for noise violations, but this seems to be our only recourse, since the within-the-hour, 24/7 response that is supposed to be provided by rental owners/agents is typically not available, especially on nights and weekends.

We have some concerns as to the environmental impact of any large increase in boat traffic down the adjacent canal in the event that multiple boats are housed at an 11-bedroom house. Many tenants are ignorant of safe boat handling, and general canal courtesy, including the disruption caused by loud noise, and the damage caused by generation of wakes. Besides kayakers and swimmers, our canal often houses manatees, including infants, and even moderate speed kills.

We have justifiable concerns over impact to our aging water system. As recently experienced, we all know it is over-stressed. We also have concerns about an over-sized house being secured in a timely fashion, including storage of outdoor items and emergency landscaping, in order to protect neighbors before a hurricane. Additionally, evacuation times in the county are something we all need to consider. Population density is always a factor.

Although we have had some difficulties with cleanliness of the property in the past, we do think it is a shame to lose three long-term apartments when there is so little else available for our working citizens. We most certainly hope that planning and city officials will look at adverse impact and rule against the 11-bedroom request. We are sorry but we cannot attend the planning meeting, but we will attend the city council discussion. Feel free to question us at any time (305-743-9115).

Respectfully,

William R. Sympson, Kathryn B. Sympson

## PLANNING COMMISSION AGENDA STATEMENT



**Meeting Date:** June 26, 2023  
**To:** The City of Marathon Planning Commission  
**From:** Brian Shea, Planning Director

**Agenda Items:** An Ordinance Of The City Of Marathon, Florida, Amending Chapter 107, Article 8 Entitled “Landscaping” 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:**

The Planning staff recommends approval of the Ordinance modifying Article 8 entitled Landscaping.

**APPLICANT:** City of Marathon

**REQUEST:** Amend City of Marathon Land Development Regulations as they apply to landscaping to provide additional criteria for design, implementation, and associated “Florida-friendly” regulations.

### **Background & Justification:**

Enabling legislation exists from the State of Florida that provides guidance to municipalities adopting landscape regulations. A full list of applicable State statutes is located in the attached ordinance. The majority of these statutes center on water conservation measures and appropriate “Florida-friendly” landscape practices.

- *Statute section 373.185- defines Florida-friendly landscaping as “quality landscapes that conserve water, protects the environment, is adaptable to local conditions, and is drought tolerant. The principles of such landscaping include planting the right plant in the right place, efficient watering, appropriate fertilization, mulching, attraction of wildlife, responsible management of yard pests, recycling yard waste, reduction of storm water runoff, and waterfront protection. Additional components include practices such as landscape planning and design, soil analysis, the appropriate use of solid waste compost, minimizing the use of irrigation, and proper maintenance.”*
- *Statute section 125.568- finds that Florida-friendly landscaping contributes to the conservation, protection, and restoration of water.*
- *Statute section 166.048- encourages each municipality to consider enacting ordinances, consistent with Florida-friendly landscape practices and that the use of Florida-friendly landscaping and other water use and pollution prevention measures to conserve and protect the*



*State's water resources serves a compelling public interest.*

- *Statute section 373.228- identifies the City of Marathon as being located in a water resource caution area and therefore, encourages adoption of model landscape irrigation and Florida-friendly landscaping design standards for new construction; incorporating guidelines for urban, commercial, and residential landscape irrigation, including drip irrigation, for plants, trees, sod, and other landscaping.*

Best Management Practices (BMPs) have been developed by various State agencies in accordance with these State Statutes. These include water conservation measures, efficient irrigation, the preservation of natural vegetation, and appropriate plant selection and location. Best Management Practices have also been developed for the use of fertilizers, pesticides, and appropriate maintenance practices such as proper pruning techniques, mowing, mulching, and composting. Implementation of BMPs aid in improving environmental quality and the aesthetic appearance of public, commercial, industrial, and residential areas. These guidelines and landscape practices are established to help communities, developers, builders, contractors, businesses, and homeowners become partners in improving and protecting Florida's environment. These practices are also based on the premise that the quality of Florida's surface and ground water is affected by stormwater runoff and leachate. Improper landscape design, construction and management contributes to nonpoint source pollution that affects ground and surface water quality. Use of BMPs in proper landscape design and maintenance can reduce pollution and save water, as well as save labor, resources, and money. Application of BMPs will also help to enhance property values, improve quality of life, and protect natural resources well into the future.

Amendments to the City of Marathon's Landscape Code were originally proposed due to perceived inconsistency and unpredictability in the application of the regulations originally drafted in 2007 as well as long-term aesthetic concerns of the appearance of the US-1 corridor in Marathon. Having identified these issues, City Council directed Staff to begin an evaluation and appraisal of the City's Landscape Code, more specifically, Chapter 107, Article 8, Land Development Regulations and Chapter 14, Code of Ordinances. This comprehensive evaluation identified additional opportunities for updates, clarifications, and improvements available to the overall local landscape regulation framework in furtherance of statutory guidance and current Best Management Practices. City staff utilized the Comprehensive Plan as well as Florida specific Best Management Practices and model ordinances to update the Landscape Code. The City also contracted with Liz Newland, LA to consult and help draft design guidelines, specifically related to streetscape treatments and boundary buffers to be integrated into the revisions. The ordinance was then proposed for adoption in 2013/2014 but was not adopted. Workshops and discussions in 2023 have led to this ordinance being brought back for additional consideration.

The purpose of the landscape regulations has always been to establish standards for the development, installation, and maintenance of Florida-Friendly Landscape areas without inhibiting creative landscape design, construction, and management best practices; staff is confident that the proposed revisions not only foster this purpose but enhance it.

The following list provides a representative sample of resources consulted during the revision process.

- *Florida Yards and Neighborhoods (FYN) and Environmental Landscape Management (ELM) programs operated by the University of Florida Cooperative Extension Service*
- *Florida-friendly Best Management Practices for Protection of Water Resources by the Green Industries*
- *Florida-Friendly Landscape Guidance Models for Ordinances, Covenants, and Restrictions*

- *The Florida Yards & Neighborhoods Handbook*
- *EPA's Green Parking Lot Resource Guide*
- *Landscape irrigation & Florida-friendly Design Standards*
- *Water Management Districts' Waterwise Florida Landscape Guide,*
- *Xeric Landscaping with Florida Native Plants by the Association of Florida Native Nurseries*
- *FDEP's Waterfront Property Owners Guide,*
- *Water Right: Conserving our Water, Preserving our Environment*

In the field of urban planning, there inherently exist synergies between principles and practices that affect a community's overall urban design and character; such principles and practices should not be looked at in a vacuum. Some important synergies that exist with landscaping regulations include water conservation, stormwater management, parking standards, sign code and tree ordinances.

### **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;**

The proposed amendments were created due to issues identified as noted above in the background and justification section. The amendments resolve the noted issues and further the intent to meet the criteria of the Comprehensive Plan.

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

The City of Marathon Comprehensive Plan specifically requires the City to adopt Florida-friendly landscape regulations (3-5.5.1); requires implementation of water conservation measures (3-5.5.2); encourages the storage and use of rainwater (3-5.5.5); and requires Land Development Regulations that establish criteria and regulations which discourages the use of crushed gravel in order to protect the City's nearshore waters from surface water runoff through crushed gravel. Runoff from crushed gravel results in high turbidity in our near-shore waters, resulting in layers of silt, which can kill off sea grass, corals, and marine life (4-1.18.6).

#### **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 the Ordinance modifying Article 8 entitled Landscaping.

## **ARTICLE 8. LANDSCAPING**

[Section 107.63. - Purpose and Intent.](#)

[Section 107.64. - General Criteria.](#)

[Section 107.65. - Site Interior Landscaping.](#)

[Section 107.66. - Parking Area Landscaping.](#)

[Section 107.67. - Foundation Planting Requirements.](#)

[Section 107.68. - Plant Material Specifications and Plant List.](#)

[Section 107.69. - Landscape Plans.](#)

[Section 107.70. - Landscape Buffer Requirements.](#)

[Section 107.71. - Streetscape Treatment Types.](#)

[Section 107.72. – Residential Requirements](#)

[Section 107.73. - Alternative Compliance.](#)

### **Section 107.63. Purpose and Intent.**

It is the purpose and intent of these regulations to establish minimum standards for the design, layout, installation and continued maintenance of landscaping. The overall character of the landscape of the City development shall be based on the enhancement of the pedestrian quality of the environment through landscape vegetation and the promotion of local and regional qualities through preservation of existing vegetation, ~~and use of native species, energy conservation, aesthetics, privacy and the use of Low Impact Development strategies.~~ It is furthermore, the purpose and intent of these regulations to promote energy efficiency and water conservation through the use of site adapted and appropriate, native plants and efficient landscape irrigation systems and watering practices, which may, in turn, result in long-term reductions in the use of fertilizers, pesticides, energy, maintenance, and the associated costs for the citizens of the City. ~~The installation of only drought resistant, locally adapted and native plant materials is highly desirable and preferred.~~

### **Section 107.64. General Criteria.**

- A. *Existing Vegetation:* All areas of the site shall be appropriately landscaped except those areas to be maintained in their natural condition.
  1. The developer or builder may elect to selectively remove dead or non-native vegetation from such natural areas.
  2. All development shall be planned and sited to preserve existing trees and vegetation to the greatest extent practicable.
- B. *Temporary Construction Fencing/Tree Barricades:* Temporary construction fencing shall be installed according to ~~Section 106.08. Standard forestry practices and as set forth herein~~ for all existing trees and vegetation to be preserved prior to any site work. Such fencing shall be maintained intact throughout the construction period.
- C. *Site Soils:*

1. Proper soil management techniques shall be used to provide viable, high-quality plant growing and living conditions for all vegetative materials. All planting soils shall include amendments to improve permeability, drainage, water retention, and provide proper nutrients.
  2. All plantings shall be in accordance with the rules and guidelines of the Florida Keys Exotic Invasive Task Force.
- D. *Irrigation*: Sufficient irrigation, as acceptable to the Director in accordance with the landscape plan design of the area, and the requirements of the plant material to be used, shall be supplied to all landscaped areas, pursuant to the requirements of [Section 107.69](#). When required, irrigation systems shall be installed to provide coverage to target areas, they shall be installed in such a manner as to minimize spray upon public sidewalks, streets ~~or~~, adjacent properties and impervious surfaces. Irrigation systems, compatible with ~~landscaping~~ Florida Friendly Landscaping principles, shall be ~~encouraged~~ required. This may preclude permanent irrigation entirely, or may include the use of low volume, low pressure, subsurface irrigation systems, and other such methods which encourage water conservation. All automatic lawn or landscape irrigation systems shall be equipped with and operate a moisture sensor or approved automatic switch which overrides the irrigation cycle when adequate rainfall has occurred.
- E. *Mangroves*:
1. *Authority*: Mangrove trimming and removal requires a permit from the Florida Department of Environmental Protection.
  2. *Standards for Trimming*: Mangrove trimming shall be performed in accordance with Fla. Stat. §§ 403.9321—403.9334.
  3. *Supervision*: All mangrove trimming or removal shall be directly supervised by a person certified by Florida DEP or a registered landscape architect.
- ~~F. *Landscaping for Energy Conservation*: When preparing a landscape plan, consideration shall be given to the proper selection and placement of trees and plant species near buildings to minimize building heating and cooling requirements. When located appropriately, trees and plants of adequate size, quality, canopy, and form can decrease energy consumption in buildings. With appropriate design and planning, landscape materials can cast shade, channel winds, and reduce moisture near buildings. For example, plants that cast shadows over east- and west-facing walls during the summer can greatly reduce the heat load on a building.~~

### Section 107.65. Site Interior Landscaping.

- A. *Percentage Required*: ~~Unless otherwise approved by the Director, A~~ a minimum of 25 percent of the total developed area of any parcel or property shall be devoted to landscape. Landscape planting for paved areas and tree credit and replacement criteria shall comply with the minimum requirements of the City Land Development Regulations. Parking area landscaping (Sec. 107.66) is considered part of site interior landscaping.
- B. *Protection*: ~~All landscaped areas adjacent to vehicular use areas shall be protected from vehicle encroachment by curbing or wheel stops.~~ Low Impact Development (LID) Design Requirement: All site interior landscaping shall be incorporated into and be an integral component of the overall stormwater management of a site; the two shall be designed to compliment one another in order to provide maximum environmental benefit by mimicking the natural water cycle and natural site drainage features, providing effective rainfall retention, pollutant removal and water infiltration. Such design practices may include, but not be limited to: vegetated filter strips, planter boxes, bioretention areas (raingardens/ bioswales), rain barrels and cisterns, dry and wet retention basins, infiltration systems and dry wells, pervious materials, constructed wetlands or a combination thereof. This standard shall apply to all development in the City, including single-family residential.

### Section 107.66. Parking Area Landscaping.

- A. *Parking Area Design*: Parking areas shall be landscaped as follows: ~~in one (1) of the following ways:~~
  1. With ~~canopy~~ large and medium trees that will provide a minimum of 50 percent tree canopy coverage of the paved parking areas within 20-15 years as demonstrated by a canopy coverage study conducted by a registered landscape architect and submitted to the City Biologist for review ~~or~~.

2. With interior landscaped islands containing ~~canopy~~ trees at an average of every seven (7) parking spaces not to exceed a maximum of ten (10) parking spaces without a treed island,
- i. Interior landscape islands shall comply with the design requirements listed in Table 107.66.1; shall comply with Section 107.68 and Table 107.70.4
  - ii. Interior landscape islands shall contain at least one (1) large tree and shall comply with Section 107.68 and Table 107.70.4.
3. and w~~With linear landscaped islands with ~~containing canopy~~ trees between head-to-head parking spaces.~~
- i. Linear landscape islands shall comply with the design requirements listed in Table 107.66.1; shall comply with Section 107.68 and Table 107.70.4.
  - ii. Linear landscape islands shall contain at least one (1) large tree for every 30 linear feet and shall comply with Section 107.68 and Table 107.70.4.
4. Terminal Island Required: A terminal island shall be provided at the end of each parking area rank adjacent to the travel lanes or parking aisle serving the parking rank.
- i. Terminal landscape islands shall comply with the design requirements listed in Table 107.66.1; shall comply with Section 107.68 and Table 107.70.4.
  - ii. Terminal islands shall contain at least one (1) large tree and shall comply with Section 107.68 and Table 107.70.4.
5. Perimeter Islands Required: Screening shall be provided at the perimeter of all parking areas .
- i. Perimeter landscape islands shall comply with the design requirements listed in Table 107.66.1; shall comply with Section 107.68 and Table 107.70.4.A
  - ii. In addition to the above, the following options shall be utilized in designing perimeter parking landscaping:
    1. Option 1: A continuous shrub hedge, installed at a minimum height at installation of four (4) feet from existing grade at the adjacent pavement.
    2. Option 2: A continuous shrub hedge and berm combination shall be a minimum height at installation of four (4) feet in height from existing grade at the adjacent pavement. This option shall be utilized only when integral to the site's stormwater management system and as part of the LID requirement in Section 107.65.C.
    3. Option 3: A continuous shrub hedge and swale combination shall be a minimum height at installation of four (4) feet from existing grade at the adjacent pavement. This option shall be utilized only when integral to the site's stormwater management system and as part of the LID requirement in Section 107.65.C..
    4. Walls or fences consistent with the architectural character of the surrounding buildings may be used with the above screening options provided they are in combination with landscape planting that enhances the character of the structures, is continuous and allows for pedestrian connectivity to and from the site and any adjacent right of ways
  - iii. Exception: when the above requirements coincide with the installment of a Project boundary buffer or Streetscape treatment type, the Project boundary buffer and/or Streetscape Treatment type may be counted toward the required perimeter screening of a

parking area in 1-4, above. Nothing in this exception shall preclude the application of principles cited in Section 107.64.F, 107.65.B.

6. Substitutions of the parking area minimum landscape materials may be permitted if it can be shown that the intent of 107.66.A.1 is not diminished. All substitutions shall be prescribed from Table 107.66.1

**Table 107.66.1**

Site Interior Landscape Element Design Requirements

<u>Island Type</u>	<u>Width</u>	<u>Length</u>	<u>Minimum Plantings</u>	<u>Landscape Buffer Possible Substitutes</u>	<u>Substitute Equivalents</u>	
					<u>Option 1</u>	<u>Option 2</u>
<u>Terminal</u>	<u>12 feet</u>	<u>18 feet</u>	<u>1 Large tree</u>	<u>None</u>	<u>N/A</u>	<u>N/A</u>
<u>Linear</u>	<u>8 feet</u>	<u>varies</u>	<u>1 Large tree every 30 feet</u>	<u>30% Large trees</u>	<u>2 Medium Trees</u>	<u>6 Medium Palms</u>
<u>Interior</u>	<u>9 feet</u>	<u>18 feet</u>	<u>1 Large tree</u>	<u>50% Large trees</u>	<u>2 Medium Trees</u>	<u>N/A</u>
<u>Perimeter</u>	<u>10 feet</u>	<u>varies</u>	<u>1 Large tree every 30 feet</u>	<u>30% Large trees</u>	<u>2 Medium Trees</u>	<u>6 Medium Palms</u>

The width of the landscape islands shall be no less than the width of an approved parking space. The width of the linear landscape islands shall be no less than one half (½) the width of a parking space. For parking widths standards, see Section 107.52. Canopy trees for the linear landscape island shall have the trees spaced at no more than an average of 30 feet on centers. Notwithstanding the foregoing, all landscape planting islands shall be planted with a minimum of one (1) native canopy tree.

7. In addition to the requirements listed in table 107.66.1, all parking area landscape island types shall be planted with a combination of shrubs and groundcovers installed in a manner to protect tree planting areas from uninhibited access and soil compaction while providing strategic pedestrian circulation through and between parking ranks and landscape islands.
8. All parking area landscape island types shall be designed and maintained in order to provide a 'clear zone' between approximately three (3) and seven (7) feet above adjacent parking area grade.
9. -All landscape island dimensions and area calculations are to be taken from inside of curb faces or edge of pavement, whichever is less. An exception may be considered for adjacent pervious areas that are specifically designed to be accessed by a tree's root system; such areas shall be shown during design to have a direct sub surface connection, this may include installation of structural soils, root paths or a combination thereof to achieve a sustainable path for a tree's root system.
10. Protection: All landscaped island areas adjacent to parking ranks and spaces shall be protected from vehicle encroachment by curbing and/or wheel stops.
11. All lighting shall be designed and installed so as to avoid conflicts with landscape. Lighting should be designed to be below the height of the bottom of the proposed mature tree canopy.
12. Preservation of Existing Trees: The Director, at the time of final site plan approval, may reduce the frequency or number of landscape islands, may eliminate the requirement for a linear landscape island between head-to-head parking rows or approve reduced widths of landscape islands for the purpose of preservation of existing tree canopy and tree clusters in order to maintain a 50 percent tree canopy coverage of the parking area within 15 years as demonstrated by the canopy coverage study.

*Canopy Tree Spacing:* Canopy trees spaced along the perimeters of the parking areas shall be spaced a maximum of 30 feet on center and in no case shall the width of this perimeter buffer be less than one half (½) the width of a parking space.

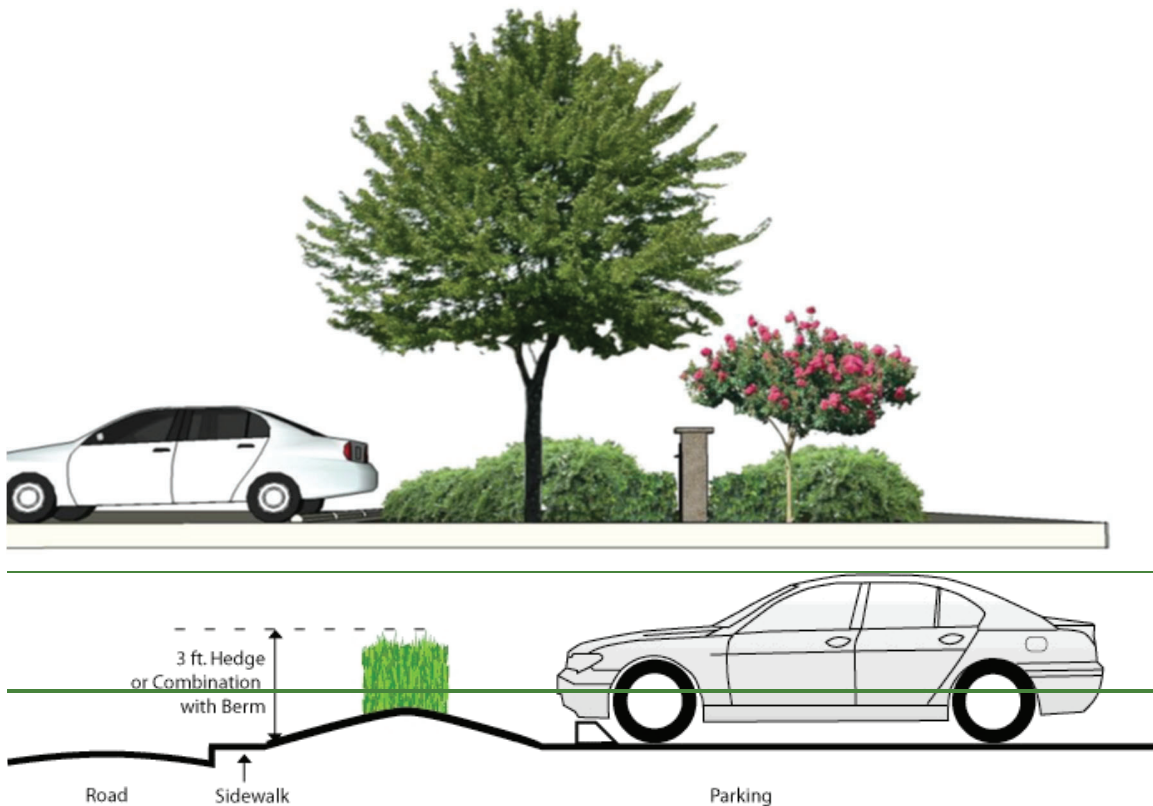
*B. Preservation of Existing Trees:* The Director, at the time of final site plan approval, may reduce the frequency or number of landscape islands, may eliminate the requirement for a linear landscape island between head-to-head parking rows or approve reduced widths of landscape islands for the purpose of preservation of existing tree canopy and tree clusters in order to maintain a 50 percent tree canopy coverage of the parking area within 20 years as demonstrated by the canopy coverage study.

*C. Terminal Island Required:* A terminal island shall be provided at the end of each parking area rank adjacent to the travel lanes or parking aisle serving the parking rank.

*D. Percentage of Native Trees Established:* Tree plantings utilized for the above requirements shall be 75 percent tree species selected from the City's native large tree list.

*E. Visual Screening Required:* A continuous hedge or combination hedge and earth berm shall be provided between the parking area and all adjacent rights-of-way. The hedge and hedge berm combination is required to obtain three (3) feet in height to visually screen the parking area from the right-of-way. Walls or fences consistent with the architectural character of the surrounding buildings may be used for this screening provided they are in combination with landscape planting that enhances the character of the structures and is continuous.

Figure 107.66.1  
Parking Screening





## Section 107.67. Foundation Planting Requirements.

For all nonresidential and multi-family buildings, a landscape area shall be provided around ~~the base of~~ all freestanding buildings. The landscape area shall be a minimum of five (5) feet wide and be located within, equal to ten (10) feet from the structure/facade. At a minimum, there shall be a combination of two (2) medium and five (5) small shrubs and one (1) canopy tree, medium tree, or one (1) large palm -or two (2) medium palms for every 15 feet of cumulative facade perimeter and shall be evenly distributed. The height of the planted material shall be in relation to the height of the adjacent facade or wall. The cumulative minimum plantings may be grouped along select building facades when installation of landscape relates to building orientation and promotes energy efficiency, active or passive cooling, wind protection or reduction of heat island effects. Attention shall also be given to arrival areas, entrances, pedestrian walks, seating areas, and courtyards of all buildings. A planting approach shall use two (2) or three (3) layered plantings to enhance and announce the building entry. When the foundation planting requirements coincide with perimeter parking required in Section 107.66.A.5, the perimeter parking may be counted toward the required foundation planting requirements of this Section. Nothing in this exception shall preclude the application of principles cited in Section 107.64.F, 107.65.B.

## Section 107.68. Plant Material Specifications and Plant List.

A. *General:* The following specifications shall be utilized for all landscape materials on the project site.

1. The quality of plant material shall meet or exceed Florida Number One as defined in "Grades and Standards for Nursery Plants," Part 1 and Part 2" published by the State of Florida, Department of Agriculture and Consumer Services, 1998 or current edition.
2. ~~All plant materials must be suitable to the South Florida area, specifically the Florida Keys' climate and soil conditions. All plant species shall be either native species, or non-invasive non-native species. Species that meet the "drought tolerant" or "very drought tolerant" categories of "Waterwise" by South Florida Water Management District shall comprise 75 percent of the required trees of each project. Xeriscaping-Florida-Friendly Landscape techniques, as required in Subsection 107.69 D. of this chapter, shall be utilized to minimize water consumption.~~

B. *Trees:*

1. All required trees must ~~meet the minimum ranges for spacing, caliper, height and canopy spread as listed in Table 107.70.4~~ be a minimum two (2) inches diameter caliper, at breast height, per Florida Grades and Standards at time of planting. A minimum of 75 percent of required large trees adjacent to the major right of way and within parking areas shall be from the required City native canopy trees list. Table 107.68.1 provides representative examples of native trees and vegetation for landscaping. For a complete list contact the City Biologist.
2. ~~Tree spacing shall be determined by species type and approved by the City Biologist. Large trees shall not be planted closer than 3.5 feet from any permanent hardscape or building. Large trees shall be provided a minimum of 300 square feet of immediately accessible soil area for root growth. Up to twenty five percent (25%) of this planned soil area for root growth can be shared with another tree's planned soil area for root growth. See 107.66.F~~
- 2.3. ~~Medium trees shall not be planted closer than 2 feet from any permanent hardscape or building. Medium trees shall be provided a minimum of 150 square feet of immediately accessible soil area for root growth. Up to twenty five percent (25%) of this planned soil area for root growth can be shared with another tree's planned soil area for root growth. See 107.66.F~~

C. *Shrubs and Hedges/Groundcovers:* Plant materials utilized to provide a continuous screen ~~of hedges shrubs~~ must be a minimum of ~~18-24 inches high above grade upon planting, with a maximum spacing of two (2) feet on center. See 107.66.A.6.~~ All plant materials utilized for this screening must attain at least 50 percent visual blockage within two (2) years. A minimum of 75 percent of required shrubs and groundcovers shall be from Table 107.68.1.

- D. *Mulch*: Natural mulch shall be used in all planting areas. The use of cypress mulch is discouraged. The Department may allow substitutions of other mulch types on a case by case basis.

**Table 107.68.1**  
Native Plant Materials

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<u>LARGE TREES</u>	
<u>Bursera simaruba</u>	<u>Gumbo Limbo</u>
<u>Clusia rosea</u>	<u>Pitch Apple</u>
<u>Conocarpus erectus</u>	<u>Buttonwood</u>
<u>Coccoloba uvifera</u>	<u>Sea Grape</u>
<u>Ficus citrifolia</u>	<u>Short Leaf Fig</u>
<u>Lysiloma latisiliquum</u>	<u>Lysiloma</u>
<u>Mastichodendrom foetidissimum</u>	<u>Mastic</u>
<u>Piscidia piscipula</u>	<u>Jamaican Dogwood</u>
<u>Simarouba glauca</u>	<u>Paradise Tree</u>
<u>Swietenia mahagoni</u>	<u>Mahogany</u>
<u>MEDIUM TREES</u>	
<u>Amyris elemifera</u>	<u>Torchwood</u>
<u>Ardisia escallonoides</u>	<u>Marlberry</u>
<u>Bourreria succulenta</u>	<u>Strongbark</u>
<u>Canella winterana</u>	<u>Cinnamon Bark</u>
<u>Conocarpus erectus 'sericeus'</u>	<u>Silver Buttonwood</u>
<u>Chrysophyllum oliviforme</u>	<u>Satinleaf</u>
<u>Coccoloba diversifolia</u>	<u>Pigeon Plum</u>
<u>Cordia sebestena</u>	<u>Orange Geiger</u>
<u>Guapira discolor</u>	<u>Bolly</u>
<u>Guaiacum sanctum</u>	<u>Lignum Vitae</u>
<u>Krugiodendrom ferreum</u>	<u>Black Ironwood</u>
<u>Myrcianthes fragrans</u>	<u>Simpson Stopper</u>
<u>LARGE SHRUBS</u>	
<u>Acacia choriophylla</u>	<u>Cinnecord</u>
<u>Capparis cynophallophora</u>	<u>Jamaican Caper</u>
<u>Calyptanthus pallens</u>	<u>Spicewood</u>
<u>Citharexylum spinosum</u>	<u>Fiddlewood</u>
<u>Conocarpus erectus 'sericeus'</u>	<u>Silver Buttonwood</u>
<u>Eugenia axillaris</u>	<u>White Stopper</u>
<u>Eugenia confusa</u>	<u>Red Berry Stopper</u>
<u>Eugenia foetida</u>	<u>Spanish Stopper</u>
<u>Eugenia rhombea</u>	<u>Red Stopper</u>
<u>Foresteriera segregata</u>	<u>Florida Privet</u>
<u>Genipa clusifolia</u>	<u>Seven Year Apple</u>
<u>Gymnanthes lucida</u>	<u>Crabwood</u>

<u>Rapanea punctata</u>	<u>Myrsine</u>
<u>Schaefferia frutescens</u>	<u>Florida Boxwood</u>
<u>MEDIUM SHRUBS</u>	
<u>Brysonima lucida</u>	<u>Locust Berry</u>
<u>Chrysobalanus icaco</u>	<u>Cocoplum</u>
<u>Duranta repens</u>	<u>Golden Dew Drop</u>
<u>Erithalis fruticosa</u>	<u>Black Torch</u>
<u>Hamelia patens</u>	<u>Firebush</u>
<u>Pithecellobium keyense</u>	<u>Florida Keys Blackbead</u>
<u>Psychotria nervosa</u>	<u>Wild Coffee</u>
<u>Randia aculeata</u>	<u>Indigo Berry</u>
<u>Suriana maritima</u>	<u>Bay Cedar</u>
<u>SMALL SHRUBS</u>	
<u>Argusia gnaphalodes</u>	<u>Sea Lavender</u>
<u>Callicarpa americana</u>	<u>Beauty Berry</u>
<u>Chiococca alba</u>	<u>Snowberry</u>
<u>Jacquinia keyensis</u>	<u>Joewood</u>
<u>Lantana involucrata</u>	<u>White Lantana</u>
<u>Psychotria ligustrifolia</u>	<u>Dwf. Wild Coffee</u>
<u>Savia bahamensis</u>	<u>Maiden Bush</u>
<u>Senna mexicana 'chapmanii'</u>	<u>Bahama Cassia</u>
<u>Serenoa repens</u>	<u>Saw Palmetto</u>
<u>Sophora tomentosa</u>	<u>Necklace Pod</u>
<u>GROUNDCOVER</u>	
<u>Arachis glabrata</u>	<u>Perennial Peanut</u>
<u>Asclepias tuberosa</u>	<u>Butterfly Weed</u>
<u>Borrichia arborescens</u>	<u>Sea Ox-Eye Daisy</u>
<u>Coreopsis leavenworthii</u>	<u>Tickseed</u>
<u>Crinum americanum</u>	<u>Swamp Lily</u>
<u>Ernodia littoralis</u>	<u>Golden Creeper</u>
<u>Flaveria linearis</u>	<u>Yellowtop</u>
<u>Gaillardia puchella</u>	<u>Blanket Flower</u>
<u>Helianthus debilis</u>	<u>Dune Sunflower</u>
<u>Hymenocallis latifolia</u>	<u>Spider Lily</u>
<u>Ipomea pes-caprae</u>	<u>Goatsfoot</u>
<u>Lantana depressa</u>	<u>Pineland Lantana</u>
<u>Muhlenbergia capillaris</u>	<u>Muhly Grass</u>
<u>Nephrolepis exaltata</u>	<u>Sword Fern</u>
<u>Salvia coccinea</u>	<u>Native Salvia</u>
<u>Scaevola plumieri</u>	<u>Inkberry</u>
<u>Scuteleria havanensis</u>	<u>Havana Skullcap</u>
<u>Sesuvium portulacastrum</u>	<u>Sea Purslane</u>

<u>Spartina patens</u>	<u>Cordgrass</u>
<u>Stachytarpheta jamaicensis</u>	<u>Porterweed</u>
<u>Tripsacum floridanum</u>	<u>Dwarf Fakahatchee</u>
<u>Uniola paniculata</u>	<u>Sea Oats</u>
<u>Zamia pumila</u>	<u>Coontie</u>
<u>LARGE PALMS</u>	
<u>Roystonea elata</u>	<u>Royal Palm</u>
<u>MEDIUM PALMS</u>	
<u>Sabal palmetto</u>	<u>Palmetto</u>
<u>SMALL PALMS</u>	
<u>Coccothrinax argentata</u>	<u>Silver Palm</u>
<u>Pseudophoenix sargentii</u>	<u>Buccaneer Palm</u>
<u>Thrinax radiata</u>	<u>Thatch Palm</u>
<u>Thrinax morrisii</u>	<u>Keys Thatch Palm</u>
<u>Note: This list is not complete and is to be used as a representative sampling of the required native planting material. For a complete list, contact the City Biologist.</u>	

<u>Common Name</u>	<u>Botanical Name</u>	<u>Maximum Height</u>	<u>Native Status</u>
<u>CANOPY TREES</u>			
<u>Gumbo Limbo</u>	<u>Bursera simaruba</u>	<u>40—60 feet</u>	<u>Keys</u>
<u>Jamaican Dogwood</u>	<u>Piscidia piscipula</u>	<u>35—50 feet</u>	<u>Keys</u>
<u>Mahogany</u>	<u>Swietenia mahogany</u>	<u>40 feet</u>	<u>Keys</u>
<u>Green Buttonwood</u>	<u>Conocarpus erectus</u>	<u>30 feet</u>	<u>Keys</u>
<u>Pigeon Plum</u>	<u>Coeloba diversifolia</u>	<u>40 feet</u>	<u>Keys</u>
<u>Silver Buttonwood</u>	<u>Conocarpus erectus</u>	<u>15—20 feet</u>	<u>Keys</u>
<u>Satinleaf</u>	<u>Chrysophyllum oliviforme</u>	<u>30 feet</u>	<u>Keys</u>
<u>Autograph Tree, Pitch Apple</u>	<u>Clusia rosea</u>	<u>30 feet</u>	<u>Keys</u>
<u>Locustberry</u>	<u>Brysonima lucida</u>	<u>15 feet</u>	<u>Keys</u>

Lignum Vitae	Guaiacum sanctum	25 feet	Keys
SHRUBS			
Jamaica-Caper	Capparis eunophallophora	6—15 feet	Keys
Coco Plum	Chrysobalanus icaco	12 feet	Florida
Necklace Pod	Sophora tomentosa	6—8 feet	Keys
Golden Dewdrop	Duranta repens	18 feet	Florida
Bay Cedar	Suriana maritima	10—15 feet	Keys
Wild Coffee	Psychotria nervosa	4—6 feet	Florida
Firebush	Hamelia patens	18—30 inches	Florida
GROUND COVER			
Golden Creeper	Ernoda littoralis	1—3 feet	Florida
Blanket Flower	Gaillardia pulchella	1—1.5 feet	Florida
Railroad Vine	Ipomoea pes-caprae	0.3—0.6 feet	Florida
Sea Purselane	Sesuvium portulacastrum	1—1.5 feet	Florida
Sea Oats	Uniola paniculata	3—5 feet	Keys
Dwarf Lantana	Lantana involucrate	0.7 feet	Keys
Blue Porterweed	Stachytarpheta jamaicensis	1—1.5 feet	Keys
Spider Lily	Hymenocallis latifolia	1—3 feet	Florida
Crinum Lily	Crinum Spp.	5 feet	Florida
Beach Sunflower	Helianthus debilis	1—2 feet	Keys
Coontie	Zamia pumila	1—3 feet	Keys

PALMS			
Florida Thatch Palm	<i>Thrinax radiata</i>	30 feet	Keys
Key Thatch Palm	<i>Thrinax morrissi</i>	25 feet	Keys
Florida Silver Palm	<i>Coccothrinax argentata</i>	40 feet	Keys
Saw Palmetto	<i>Serenoa repens</i>	20 feet	Keys
Buccaneer Palm	<i>Pseudophoenix sargentii</i>	10 feet	Keys
Cabbage Palm	<i>Sabal palmetto</i>	40 feet	Keys
Dwarf Palmetto	<i>Sabal minor</i>	6 feet	Keys

**Table 107.68.2**  
Approved Non-Native Plant Materials

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<u>LARGE TREES</u>	
<u><i>Bulnesia arborea</i></u>	<u>Verawood</u>
<u><i>Cassia fistula</i></u>	<u>Golden Shower</u>
<u><i>Cananga odorata</i></u>	<u>Ylang Ylang</u>
<u><i>Jacaranda mimosifolia</i></u>	<u>Jacaranda</u>
<u><i>Mangifera indica</i></u>	<u>Mango</u>
<u><i>Tamarindus indica</i></u>	<u>Tamarind</u>
<u>MEDIUM TREES</u>	
<u><i>Caesalpinia pulcherrima</i></u>	<u>Dwarf Poinciana</u>
<u><i>Senna surattensis</i></u>	<u>Glaucous Cassia</u>
<u>LARGE SHRUBS</u>	
<u><i>Citrus aurantifolia</i></u>	<u>Key Lime</u>
<u><i>Clusia guttifera</i></u>	<u>Small Leaf Clusia</u>
<u>MEDIUM SHRUBS</u>	
<u><i>Acalypha hispida</i></u>	<u>Chenille Plant</u>
<u><i>Acalypha wilkesiana</i></u>	<u>Copperleaf</u>
<u><i>Codiaeum variegatum</i></u>	<u>Croton</u>
<u><i>Galphimia gracilis</i></u>	<u>Thryallis</u>
<u>SMALL SHRUBS</u>	
<u><i>Bougainvillea speciosa</i></u>	<u>Bougainvillea</u>
<u><i>Cariss macrocarpa</i> 'Emerald Blanket'</u>	<u>Emerald Blanket Carissa</u>

<u>Clerodendron thomsoniae</u>	<u>Bleeding Heart</u>
<u>Hamelia patens 'Compacta'</u>	<u>Dwarf Firebush</u>
<u>Pandora jasminoides</u>	<u>Bower Vine</u>
<u>Plumbago auriculata</u>	<u>Leadwort</u>
<u>Zamia furfuracea</u>	<u>Cardboard Palm</u>
<u>GROUNDCOVER</u>	
<u>Crossandra infundibuliformis</u>	<u>Crossandra</u>
<u>Euphorbia millii</u>	<u>Crown of Thorns</u>
<u>Ficus microcarpa 'Green Island'</u>	<u>Green Island Ficus</u>
<u>Lantana camara</u>	<u>Lantana</u>
<u>Microsorium scolopendrium</u>	<u>Wart Fern</u>
<u>Nephrolepis falcata</u>	<u>Macho Fern</u>
<u>Pentas lanceolata</u>	<u>Star Flower</u>
<u>Philodendron 'Burle Marx'</u>	<u>Burle Marx Philodendron</u>
<u>Ruellia brittonia</u>	<u>Ruellia</u>
<u>Russelia equisetiformis</u>	<u>Firecracker</u>
<u>LARGE PALMS</u>	
<u>Bismarkia nobilis</u>	<u>Bismark Palm</u>
<u>Cocus nucifera</u>	<u>Coconut</u>
<u>Phoenix canariensis</u>	<u>Canary Date Palm</u>
<u>Phoenix dactylifera 'Medjool'</u>	<u>Medjool Date Palm</u>
<u>MEDIUM PALMS</u>	
<u>Veitchii montgomeryana</u>	<u>Montgomery Palm</u>
<u>Wodyetia bifurcata</u>	<u>Foxtail Palm</u>
<u>SMALL PALMS</u>	
<u>Dyopsis cabadae</u>	<u>Cabada Palm</u>
<u>Ptychosperma elegans</u>	<u>Alexander Palm</u>
<u>Note: This list is not complete and is to be used as a representative sampling of the required native planting material. For a complete list, contact the City Biologist.</u>	

## Section 107.69. Landscape Plans.

- A. **Planting Plan:** Site designs and landscape construction documents shall be prepared in accordance with the requirements of all applicable Florida Statutes. All landscape and irrigation system designs shall be consistent with the standards required under 373.228 Florida Statutes. A copy of the planting plan shall be submitted to the Department for final review.
- B. **Drawing Requirements:** Planting drawings shall indicate all existing and proposed landscape buffers, easements, utilities, right-of-ways, structures, and overhead lines associated with the parcel. All multi-family and non-residential landscape plans shall be prepared by, and bear the seal of, a landscape architect licensed to practice in the State of Florida, or by persons authorized by Chapter 481, Florida Statutes, to prepare landscape plans or drawings.

~~B.C.~~ **Natural Vegetation:** The preservation and utilization of a site's ~~natural-native~~ trees, understory, and other vegetation shall be incorporated into the overall site development and planting plans to the greatest extent practicable.

~~C.D.~~ **Xeriscaping Florida Friendly Landscapes:** The following table lists those principles that shall be utilized ~~by the TRC~~ in the ~~preparation~~, review, evaluation, and approval of all required landscape plans. These principles shall only be required to apply to new construction or substantial improvements, as applicable.

**Table 107.69.1**

<b>Florida Friendly Landscape Requirements (R= Compliance Required, O= Compliance Optional)</b>	<b>Non- Residential</b>	<b>Residential</b>
<b>1. <u>Site Planning and Design:</u></b>	<u>R</u>	<u>R</u>
a. <u>The Site Plan shall consider natural drainage features to minimize runoff. The use of pervious surfaces and areas is preferred. Therefore impervious surfaces and materials within the landscaped area shall be limited to borders, sidewalks, stepping stones, and other similar elements of design and shall not exceed 15 percent of the landscaped area. Use of pervious paving materials is strongly encouraged and relative imperviousness will be considered.</u>	<u>R</u>	<u>R</u>
b. <u>Site plans shall identify all vegetated areas to be preserved, including but not limited to water resource and wetland buffers adjoining all waters of the state. Such buffers should be native, or if previously disturbed, constructed in accordance with USDA-NRCS conservation practices. Water resource and wetland buffers shall comply with Section 106.28 in order to protect water bodies from nonpoint source pollution generated by up gradient development.</u>	<u>R</u>	<u>R</u>
c. <u>All invasive exotic plant species shall be noted on the Site Plan and be removed from each site prior to the beginning of construction. For purposes of determining plant species to remove, refer to Department of Agriculture and Consumer Services "Noxious Weeds" rule Chapter 5B-57, F.A.C. and the Florida Keys Exotic Invasive Task Force rules and guidelines.</u>	<u>R</u>	<u>R</u>
d. <u>Gravel, river rock, shell and similar materials shall not be used as a major landscape ground cover or mulch as they increase the need for herbicide use, have no habitat value, reflect rather than absorb heat, do not produce oxygen like plants and the runoff from crushed gravel results in high turbidity in near shore waters, resulting in layers of silt, which can kill off sea grass, corals and marine life. In no case may the use of these materials exceed 30 percent of the total pervious site area.</u>	<u>R</u>	<u>R</u>



e. <u>The solar orientation of the property and its relationship to other properties should be considered as this may produce different microclimate exposures (e.g., sun vs. shade, southern vs. northern exposure, surrounded by heat-reflective surfaces, etc). When preparing a landscape plan, consideration should be given to the proper selection and placement of tree species near buildings to minimize building heating and cooling requirements. When located appropriately, trees of adequate size, quality, canopy, and form can decrease energy consumption in buildings in the summer by reducing heat absorption and in the winter by allowing for passive solar heating and providing protection from the wind. Maximum cooling savings will result when deciduous trees are planted to shade the eastern and/or western wall and windows of buildings. To shade the roof or wall of a one-family residential structure, for example, trees that will mature to a medium-to-large size should be planted within thirty (30) feet of the structure. Smaller trees can also be planted closer to the house and used to shade walls and window areas.</u>	<u>R</u>	<u>R</u>
f. <u>The Landscape Construction Documents shall be drawn to scale and include property boundaries, north arrow, graphic scale, and date. They shall also include, but not be limited to the following :</u>	<u>R</u>	<u>R</u>
i. <u>Location of all underground and above ground utilities and boxes including overhead utilities;</u>	<u>R</u>	<u>R</u>
ii. <u>Existing and proposed trees, shrubs, ground covers and turf areas within the developed landscape area;</u>	<u>R</u>	<u>R</u>
iii. <u>Plants by botanical and common name, where applicable cultivar name, plant spacing, quantities of plant for each type, planted sizes including notation of field grown or container size, and mature height and spread of each plant;</u>	<u>R</u>	<u>O</u>
iv. <u>Existing and proposed property lines, streets, street names and public utilities;</u>	<u>R</u>	<u>R</u>
v. <u>Existing and proposed hardscape features such as driveways, patios, and sidewalks as necessary as well as existing or proposed nonorganic mulched areas;</u>	<u>R</u>	<u>O</u>
vi. <u>Existing and proposed structures such as pools, fountains, fences and retaining walls;</u>	<u>R</u>	<u>R</u>
vii. <u>Existing and proposed buildings;</u>	<u>R</u>	<u>R</u>
viii. <u>Tabulation of the total square footage(s) of the various landscape hydrozones on the plan. If more than one (1) water meter serves the site, the total hydrozone square footages of all the various hydrozones must be identified with each Point of Connection (POC) and meter providing water service.</u>	<u>R</u>	<u>O</u>
g. <u>Irrigation plans must be designed to recognize differential irrigation requirements of the landscape as described in this article. It is suggested that As-Built construction documents be submitted prior to issuance of the Certificate of Occupancy, with a copy delivered to the property owner. This will help to prevent later damage from digging by utility workers or the property owner and assist the owner with understanding the system design. The irrigation plan shall include the following:</u>	<u>R</u>	<u>R</u>
i. <u>Irrigation point(s) of connection and design capacity;</u>	<u>R</u>	<u>R</u>
ii. <u>Water service pressure at irrigation POCs;</u>	<u>R</u>	<u>R</u>

iii. <u>Water meter size;</u>	<u>R</u>	<u>R</u>
iv. <u>Reduced-pressure-principle backflow-prevention devices for each irrigation POC on potable water systems;</u>	<u>R</u>	<u>R</u>
v. <u>Major components of the irrigation system shall include, but not be limited to; pumps, filters, valves, mainline pipes, lateral pipes, controllers, tubing, and pipe sizes;</u>	<u>R</u>	<u>R</u>
vi. <u>Precipitation rate expressed in inches per hour for each valve circuit. The preparer must attach to the Project Data Sheet the calculations for deriving precipitation rates for each irrigation valve circuit;</u>	<u>R</u>	<u>O</u>
vii. <u>Total flow rate (flow velocity not to exceed five (5) feet per second) in gallons per minute (gpm) and operating pressure (psi) for each individual overhead and bubbler circuit, and gallons per hour (gph) and operating pressure for low-flow point irrigation circuit;</u>	<u>R</u>	<u>R</u>
<u>elements: Separate symbols for all irrigation equipment. For each irrigation head type the legend shall show coverage patterns, precipitation rates, operation pressure requirements, gallons required and associated time periods, brand and model names, and pressure compensating devices (if applicable). A general description of all other equipment, including brand name and model number, sizes, special features, and materials. For all specified equipment for low-flow systems the legend shall contain recommended operating pressure, brand name and model names, precipitation rates, distribution patterns, and spacing of emitters or drip tubing;</u>	<u>R</u>	<u>R</u>
ix. <u>The same requirements for use of a recycled water irrigation system shall apply. Reclaimed water, grey water, or other nonpotable water shall be used for irrigation provided an acceptable source for that water is available and identified by the City;</u>	<u>R</u>	<u>R</u>
x. <u>Identify location of the rain shut-off devices and any soil moisture sensors;</u>	<u>R</u>	<u>R</u>
xi. <u>The irrigation system must clearly account for any slopes over ten (10%) percent and any elevation differences over five (5) feet. If the irrigation plan does not clearly show design for these situations, a grading plan may be required which shall indicate all finish grades by either spot elevations or contours or both along with drainage patterns within the developed irrigated area.</u>	<u>R</u>	<u>O</u>
<b>2. <u>Soils:</u></b>	-	-
a. <u>Analysis: When required, as determined by the City Biologist, a soil analysis shall provide the following information, at a minimum:</u>	<u>R</u>	<u>O</u>
i. <u>Determination of soil texture, indicating the percentage of organic matter;</u>	<u>R</u>	<u>O</u>
ii. <u>Measurement of pH of the soil, and total soluble salts; and</u>	<u>R</u>	<u>O</u>
iii. <u>Estimated soil infiltration rate.</u>	<u>R</u>	<u>O</u>
b. <u>Use of Existing Top Soil: Existing horticulturally suitable topsoil shall be stockpiled and re-spread during final site grading. Any new soil required shall be similar to the existing soil in pH, texture, permeability, and other characteristics, unless a Soil Analysis provides evidence that either soil amendment is needed or a different soil type is required. The use of solid waste compost as a soil amendment is encouraged where it is appropriate.</u>	<u>R</u>	<u>O</u>

<b>3. <u>Land Clearing Standards and Preservation of Native Vegetation:</u></b>	-	-
a. <u>Unless otherwise approved by the City, clearing of a site shall preserve all native vegetation.</u>	R	R
b. <u>Vegetation which is set aside for preservation shall be protected from all on-site construction. Protective barriers shall be installed along the perimeter of all preserve areas. Protective barriers shall be constructed at such intervals to prevent machinery from passing between them.</u>	R	R
c. <u>No equipment or materials shall be permitted to be stored within the set-aside areas, and dumping of excess soil, liquids, or any other construction debris within the preservation areas is prohibited.</u>	R	R
d. <u>Removal or re-grading of soils within preservation areas is prohibited.</u>	R	R
e. <u>Any damaged vegetation within the set-aside areas shall be replaced with vegetation equivalent to the vegetation destroyed before any certificates of occupancy or other approvals may be issued.</u>	R	R
<b>4. <u>Appropriate Plant Selection, Location, and Arrangement:</u></b>	-	-
a. <u>Appropriate Plant Selection: Plant selection should be based on the plant's adaptability to the existing conditions present within the planted area and the Keys native plant communities. Plant species that are drought tolerant are preferred. For purposes of determining prohibited and controlled plant species refer to the Department of Agriculture and Consumer Services rule, Chapter 5B-57 Florida Administrative Code. Plants named in this rule may not be used except as allowed in Chapter 5B-57.</u>	R	R
b. <u>Location: Plants shall be grouped in accordance with their respective water and maintenance needs. Plants with similar water and cultural (soil, climate, sun, and light) requirements shall be grouped together. Where natural conditions are such that irrigation is not required, the presence of site appropriate plants shall not be considered a high water use hydrozone.</u>	R	R
c. <u>Arrangement: The combined size of all high water use hydrozones shall be limited to 30 percent of the total planted area including turf. In planted areas irrigated with recycled water, the allowable size of all high water use zones shall be increased to not more than 60 percent of the total planted area including turf. These high water use limits do not apply to planted areas requiring large amounts of turf for their primary functions, e.g., ballfields and playgrounds; soil moisture sensors shall be installed in these areas.</u>	R	O
<b>5. <u>Turf Areas:</u></b>	-	-
a. <u>Type and Location: The type of turf shall be selected from c.1, below and the location of turf areas shall be chosen in the same manner as with all the other plantings. Irrigated turf areas, as opposed to non-irrigated turf areas, are considered to be a high water use hydrozone. Irrigated turf shall not be treated as a fill-in material but rather as a planned element of the landscape. Turf shall be placed so that it can be irrigated using separate zones.</u>	R	R

b. <u>Arrangement: While turf areas provide many practical benefits in a landscape, how and where it is used can result in a significant reduction in water use. Irrigated turf grass areas shall be consolidated and limited to those areas on the site that receive pedestrian traffic, provide for recreation use, provide cover for waste treatment drainfields and required drainfield reserve areas, or provide soil erosion control such as on slopes or in swales; and where turfgrass is used as a design unifier, or other similar practical use.</u>	<u>R</u>	<u>O</u>
c. <u>No turf grass that requires mowing shall be allowed on slopes greater than 4:1 or within ten (10) feet of the water's edge. For turf areas (where a planting plan is required), areas shall be identified on the plan by biological and common name and by variety and by the square footage covered by the turf.</u>	<u>R</u>	<u>R</u>
<u>1. Turf Types Appropriate for the Keys</u>		
<u>St. Augustine</u>	-	-
<u>Bermuda</u>	-	-
<u>Zoysia</u>	-	-
<u>Bahia</u>	-	-
<u>6. Efficient Irrigation:</u>		
a. <u>Design Guidelines: An irrigation system shall be designed and constructed in accordance with the Site Planning and Design Requirements of this Article. All irrigation installations after the effective date of this ordinance shall meet the irrigation standards identified per 373.228 F.S. These include:</u>		
i. <u>Irrigation systems shall be designed to meet the needs of the plants in the landscape (not the other way around).</u>	<u>R</u>	<u>R</u>
ii. <u>Whenever feasible, irrigation systems shall be designed to separately serve turf and non-turf areas.</u>	<u>R</u>	<u>R</u>
iii. <u>The irrigation system plans and specifications shall identify the materials to be used and the construction methods.</u>	<u>R</u>	<u>R</u>
iv. <u>The design shall consider soil, slope, and other site characteristics in order to minimize water waste, including overspray, the watering of impervious surfaces and other non-vegetated areas, and off-site runoff.</u>	<u>R</u>	<u>O</u>
v. <u>The system shall be designed to minimize free flow conditions in case of damage or other mechanical failure.</u>	<u>R</u>	<u>O</u>
vi. <u>The system shall be designed to use the lowest quality water feasible.</u>	<u>R</u>	<u>O</u>
vii. <u>Rain switches or other approved devices, such as soil moisture sensors, to prevent unnecessary irrigation, shall be incorporated. (Section 373.62, F.S.)</u>	<u>R</u>	<u>R</u>
viii. <u>A recommended seasonal operating schedule and average precipitation rates for each irrigation zone for both establishment and maintenance conditions shall be provided.</u>	<u>R</u>	<u>O</u>
ix. <u>Control systems shall provide the following minimum capabilities:</u>		
i. <u>Ability to be programmed in minutes, by day of week, season and time of day.</u>	<u>R</u>	<u>R</u>
ii. <u>Ability to accommodate multiple start times and programs</u>	<u>R</u>	<u>R</u>
iii. <u>Automatic shut off after adequate rainfall,</u>	<u>R</u>	<u>R</u>
iv. <u>Ability to maintain time during power outages for a minimum of three days</u>	<u>R</u>	<u>O</u>
v. <u>Operational flexibility to meet applicable year-round water conservation requirements and temporary water shortage restrictions.</u>	<u>R</u>	<u>O</u>
x. <u>Recommended maintenance activities and schedules shall be included.</u>	<u>R</u>	<u>O</u>

<u>xi. Precipitation rates for sprinklers and all other emitters in the same zone shall be matched, except that microirrigation emitters may be specified to meet the requirements of individual plants.</u>	<u>R</u>	<u>O</u>
<u>xii. Irrigation systems shall be designed to maximize uniformity, considering factors such as:</u>	<u>R</u>	<u>R</u>
<u>                    i. Emitter types.</u>	<u>R</u>	<u>R</u>
<u>                    ii. Head spacing.</u>	<u>R</u>	<u>R</u>
<u>                    iii. Sprinkler pattern.</u>	<u>R</u>	<u>R</u>
<u>                    iv. Water pressure at the emitter.</u>	<u>R</u>	<u>R</u>
<u>xiii. Irrigation systems with main lines larger than two inches or designed to supply more than seventy gallons per minute shall incorporate a means to measure irrigation water use, at a minimum of ninety-five percent accuracy across the flow range.</u>	<u>R</u>	<u>O</u>
<u>xiv. Irrigation system plans and specifications shall require the system installer to conduct final testing and adjustments to achieve design specifications prior to completion of the system and acceptance by the owner or owner's representative.</u>	<u>R</u>	<u>O</u>
<u>xv. Irrigation system plans and specifications shall require that the installer provide property owners and users with the following post-construction documentation, including as-constructed drawings, recommended maintenance activities and schedules, operational schedule, design precipitation rates, instructions on adjusting the system to apply less water after the landscape is established, maintenance schedule, water source, water shut-off method, and the manufacturer's operational guide for their irrigation controller. To the extent feasible, similar information should be made available for subsequent property transfers.</u>	<u>R</u>	<u>O</u>
<u>b. Arrangement: The irrigation system shall be designed to correlate to the organization of plants into zones as described in this Article. The water use zones shall be shown on the Irrigation Plan (where plan is required). All plants (including turf) require watering during plant establishment. Temporary irrigation systems may be installed to facilitate establishment of plants and turf. Irrigation must be conducted in accordance with WMD restrictions.</u>	<u>R</u>	<u>O</u>
<u>c. Rain Water Collection: Whenever feasible, the installation of rainwater catchment systems such as cisterns or rain barrels to reduce dependency on the use of potable water for outdoor irrigation and to reduce stormwater treatment volumes shall be required.</u>	<u>R</u>	<u>O</u>
<u>d. Check Valves: Check valves may be required to be installed in irrigation heads prevent low head drainage and puddling, when the head exceeds eight (8) feet above the POC.</u>	<u>R</u>	<u>O</u>
<u>e. Precipitation Rate: Nozzle precipitation rates for all heads within each valve circuit must be matched.</u>	<u>R</u>	<u>O</u>
<u>f. Irrigated areas shall not be less than 4 feet wide, except when next to contiguous property or when using micro or drip irrigation.</u>	<u>R</u>	<u>O</u>
<u>g. Pressure Regulating Valves: A pressure-regulating valve shall be installed and maintained if static service pressure exceeds 80 pounds per square inch. The pressure-regulating valve shall be located between the meter and the first point of water use, or first point of division in the pipe, and set at not more than 50 pounds per square inch when measured at the most elevated fixture in the structure served. This requirement may be waived if satisfactory evidence is provided that high pressure is necessary in the design and that no water will be wasted as a result of high-pressure operation. [ Rationale: The purpose of this requirement is twofold, to</u>	<u>R</u>	<u>O</u>

protect against system failure during pressure surges, and to avoid wasted water due to operation of the system significantly above commonly used design values.]

7. Yard Waste Management, Composting and Use of Mulches:

a. Yard Waste Management: In no case shall grass clippings, vegetative material, and/or vegetative debris be washed, swept, or blown off into stormwater drains, ditches, conveyances, water bodies, wetlands, or sidewalks or roadways. Any material that is accidentally so deposited shall be immediately removed to the maximum extent practicable. Yard wastes shall not be stored by shorelines, in ditches or swales, or near storm drains. [ Rationale: Yard wastes release nutrients as they decompose which may pollute the receiving water. Improper disposal of yard wastes can also contribute to flooding by causing stormwater runoff to backup in drainage systems. In addition, improper disposal may lead to spreading of invasive plants to new areas.]

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b. Composting: Shredded yard clippings and leaves should be used for mulch or be composted for use as fertilizer. Diseased organic material should not be stored, composted or used as mulch and should be properly disposed of to avoid spreading disease.

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c. Use of Mulches:

i. Composting of organic yard wastes provide many benefits and their use is strongly encouraged. The resulting materials are excellent soil amendments and conditioners. Other recycled organic solid waste products are also available and should be used when appropriate.

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ii. Grass clippings are a benefit to lawns by replacing nutrients drawn from the soil and as mulch that helps retain moisture lessening the need to irrigate. Grass clippings should be left on the lawn. Mulching mowers are recommended, because the grass clippings are chopped very finely by special blade and shroud configurations.

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iii. If a conventional mower equipped with a side discharge chute is used, the following practices should be employed. When mowing near the shoreline, direct the chute away from the waterbody. When mowing upland areas, direct the chute back onto the yard, not onto the road or driveway.

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iv. Other mulches (except grass clippings) can be applied and maintained at appropriate depths in planting beds to assist soils in retaining moisture, reducing weed growth, and preventing erosion. These mulches can also be used in places where conditions aren't adequate for or conducive to growing quality turf or ground covers. Mulches are typically wood bark chips, wood grindings, pine straws, nut shells, and shredded landscape clippings.

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v. A layer of organic mulch three (3) inches deep shall be specified on the planting plans in plant beds and around individual trees in turfgrass areas. Use of a byproduct or recycled mulch is recommended. Mulch is not required in annual beds.

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vi. <u>Mulch rings should extend to at least three (3) feet around freestanding trees and shrubs.</u>	R	O
vii. <u>All mulch should be renewed periodically.</u>	R	O
viii. <u>Mulches should be kept at least six (6) inches away from any portion of a building or structure. Mulches should be kept two to four (2—4) inches away from all tree trunks and certain types of shrubs and ground covers.</u>	R	R
ix. <u>Plastic or other impervious materials shall not be used under mulched areas.</u>	R	O
8. <u><b>Installation and Maintenance:</b> All planting, excluding private residences, shall be installed according to accepted commercial planting procedures and executed by a qualified and licensed landscape contractor using the quality and type of materials recommended by the City Biologist and stated herein.</u>	R	O
1. <u><b>Site Planning and Design:</b></u>		
a. <del>The Site Plan shall consider natural drainage features to minimize runoff. The use of pervious surfaces and areas is preferred. Therefore impervious surfaces and materials within the landscaped area shall be limited to planting borders, sidewalks, stepping stones, and pedestrian seating and shall not exceed 35 percent of the landscaped area. Use of pervious paving materials is strongly encouraged even for these limited uses which will decrease the relative impervious area of the site.</del>		
b. <del>Site plans shall identify all vegetated areas to be preserved</del>		
c. <del>All invasive exotic plant species shall be noted on the Site Plan and be removed from each site prior to the beginning of construction. For purposes of determining plant species to remove, refer to Department of Agriculture and Consumer Services "Noxious Weeds" rule Chapter 5B-57, F.A.C. and the Florida Keys Exotic Invasive Task Force rules and guidelines.</del>		
d. <del>Gravel, river rock, shell and similar materials shall not be used as a major landscape ground cover or mulch as they increase the need for herbicide use, have no habitat value, reflect rather than absorb heat, do not produce oxygen like plants and the runoff from crushed gravel results in high turbidity in near shore waters, resulting in layers of silt, which can kill off sea grass, corals and marine life. In no case may the use of these materials exceed 30 percent of the total pervious site area.</del>		
e. <del>The Landscape Construction Documents shall include, but not be limited to the following:</del>		
i. <del>Location of all underground and above ground utilities and boxes including overhead utilities;</del>		
ii. <del>Existing and proposed trees, shrubs, ground covers and turf areas within the developed landscape area;</del>		
iii. <del>Plants by botanical and common name, where applicable cultivar name, plant spacing, quantities of plant for each type, planted sizes including notation of field grown or container size, and mature height and spread of each plant;</del>		
iv. <del>Existing and proposed property lines, streets, street names and public utilities;</del>		
v. <del>Existing and proposed hardscape features such as driveways, patios, and sidewalks as necessary as well as existing or proposed nonorganic mulched areas;</del>		
vi. <del>Existing and proposed structures such as pools, fountains, fences and retaining walls;</del>		
vii. <del>Existing and proposed buildings;</del>		

- viii. ~~Tabulation of the total square footage(s) of the various landscape hydrozones on the plan. If more than one (1) water meter serves the site, the total hydrozone square footages of all the various hydrozones must be identified with each Point of Connection (POC) and meter providing water service.~~
- f. ~~Irrigation plans must be designed to recognize differential irrigation requirements of the landscape as described in this article. It is suggested that As-Built construction documents be submitted prior to issuance of the Certificate of Occupancy, with a copy delivered to the property owner. This will help to prevent later damage from digging by utility workers or the property owner and assist the owner with understanding the system design. The irrigation plan should show the following:~~
  - i. ~~Irrigation point(s) of connection and design capacity;~~
  - ii. ~~Water service pressure at irrigation POCs;~~
  - iii. ~~Water meter size;~~
  - iv. ~~Reduced pressure principle backflow prevention devices for each irrigation POC on potable water systems;~~
  - v. ~~Major components of the irrigation system shall include, but not be limited to; pumps, filters, valves, mainline pipes, lateral pipes, controllers, tubing, and pipe sizes;~~
  - vi. ~~Precipitation rate expressed in inches per hour for each valve circuit. The preparer must attach to the Project Data Sheet the calculations for deriving precipitation rates for each irrigation valve circuit;~~
  - vii. ~~Total flow rate (flow velocity not to exceed five (5) feet per second) in gallons per minute (gpm) and operating pressure (psi) for each individual overhead and bubbler circuit, and gallons per hour (gph) and operating pressure for low flow point irrigation circuit;~~
  - viii. ~~Irrigation legend will have the following elements: Separate symbols for all irrigation equipment. For each irrigation head type the legend shall show coverage patterns, precipitation rates, operation pressure requirements, gallons required and associated time periods, brand and model names, and pressure compensating devices (if applicable). A general description of all other equipment, including brand name and model number, sizes, special features, and materials. For all specified equipment for low flow systems the legend shall contain recommended operating pressure, brand name and model names, precipitation rates, distribution patterns, and spacing of emitters or drip tubing;~~
  - ix. ~~The same requirements for use of a recycled water irrigation system shall apply. Reclaimed water, grey water, or other nonpotable water shall be used for irrigation provided an acceptable source for that water is available and identified by the City;~~
  - x. ~~Identify location of the rain shut off devices and any soil moisture sensors;~~
  - xi. ~~The irrigation system must clearly account for any slopes over ten (10%) percent and any elevation differences over five (5) feet. If the irrigation plan does not clearly show design for these situations, a grading plan may be required which shall indicate all finish grades by either spot elevations or contours or both along with drainage patterns within the developed irrigated area.~~

**2. ~~Soils:~~**

- a. ~~Analysis: When required, as determined by the City Biologist, a soil analysis shall provide the following information, at a minimum:~~
  - i. ~~Determination of soil texture, indicating the percentage of organic matter;~~
  - ii. ~~Measurement of pH of the soil, and total soluble salts; and~~
  - iii. ~~Estimated soil infiltration rate.~~



- b. ~~*Use of Existing Top Soil:* Existing horticulturally suitable topsoil shall be stockpiled and re-spread during final site grading. Any new soil required shall be similar to the existing soil in pH, texture, permeability, and other characteristics, unless a Soil Analysis provides evidence that either soil amendment is needed or a different soil type is required. The use of solid waste compost as a soil amendment is encouraged where it is appropriate.~~

**3. ~~Land Clearing Standards and Preservation of Native Vegetation:~~**

- a. ~~Unless otherwise approved by the City, clearing of a site shall preserve all native vegetation.~~
- b. ~~Vegetation which is set aside for preservation shall be protected from all on-site construction. Protective barriers shall be installed along the perimeter of all preserve areas. Protective barriers shall be constructed at such intervals to prevent machinery from passing between them.~~
- c. ~~No equipment or materials shall be permitted to be stored within the set aside areas, and dumping of excess soil, liquids, or any other construction debris within the preservation areas is prohibited.~~
- d. ~~Removal or re-grading of soils within preservation areas is prohibited.~~
- e. ~~Any damaged vegetation within the set aside areas shall be replaced with vegetation equivalent to the vegetation destroyed before any certificates of occupancy or other approvals may be issued.~~

**4. ~~Appropriate Plant Selection, Location, and Arrangement:~~**

- a. ~~*Appropriate Plant Selection:* Plant selection should be based on the plant's adaptability to the existing conditions present within the planted area and the Keys native plant communities. Plant species that are drought tolerant are preferred. For purposes of determining prohibited and controlled plant species refer to the Department of Agriculture and Consumer Services rule, Chapter 5B-57 Florida Administrative Code. Plants named in this rule may not be used except as allowed in Chapter 5B-57.~~
- b. ~~*Location:* Plants shall be grouped in accordance with their respective water and maintenance needs. Plants with similar water and cultural (soil, climate, sun, and light) requirements shall be grouped together. The water use zones (hydrozones) shall be shown on the Irrigation, Layout, and Planting Plans (where required). Where natural conditions are such that irrigation is not required, the presence of site appropriate plants shall not be considered a high water use hydrozone.~~
- c. ~~*Arrangement:* The combined size of all high water use hydrozones shall be limited to 40 percent of the total planted area including turf. In planted areas irrigated with recycled water, the allowable size of all high water use zones shall be increased to not more than 75 percent of the total planted area including turf. These high water use limits do not apply to planted areas requiring large amounts of turf for their primary functions, e.g., ballfields and playgrounds.~~

**5. ~~Turf Areas:~~**

- a. ~~*Type and Location:* The type of turf shall be selected from Table 107.69.1, below and the location of turf areas shall be chosen in the same manner as with all the other plantings. Irrigated turf areas, as opposed to non irrigated turf areas, are considered to be a high water use hydrozone. Irrigated turf shall not be treated as a fill in material but rather as a planned element of the landscape. Turf shall be placed so that it can be irrigated using separate zones.~~
- b. ~~*Arrangement:* While turf areas provide many practical benefits in a landscape, how and where it is used can result in a significant reduction in water use. Irrigated turf grass areas shall be consolidated and limited to those areas on the site that receive pedestrian traffic, provide for recreation use, provide cover for waste treatment drainfields and required drainfield reserve areas, or provide soil erosion control such as on slopes or in swales; and where turfgrass is used as a design unifier, or other similar practical use. No turf grass that requires mowing shall be allowed on slopes greater than 4:1 or within six (6) feet of the water's edge, except where adjacent to seawalls and bulkheads or where needed to control erosion. For turf areas (where a planting plan is required) areas shall be identified on the plan by biological and common name and by variety and by the square footage covered by the turf.~~

**Table 107.69.1**  
**Turf Types**  
**Appropriate for the Keys**

St. Augustine
Bermuda
Zoysia
Bahia

**6. ~~Efficient Irrigation:~~**

- ~~a. *Design Guidelines:* An irrigation system shall be designed and constructed in accordance with the Site Planning and Design Requirements of this Article.~~
- ~~b. *Irrigation Schedule:* Water can be conserved through the use of a properly designed, managed, maintained, and timed irrigation system. Irrigation scheduling information, equipment manuals, and instructions for seasonal, daily and weekly timing (as appropriate), and proper sensor settings, shall be provided to the owner at the time of installation by the irrigation contractor. An irrigation valve location map, gallons per minute demands, precipitation rates, plant types within valve circuits, and operating pressure requirements for each valve shall be developed and provided to the property owner. This map shall be attached inside each irrigation controller, pump station, or be kept in another readily available location as is practical and maintained as a permanent record for the irrigation system.~~
- ~~c. *Arrangement:* The irrigation system shall be designed to correlate to the organization of plants into zones as described in this Article. The water use zones shall be shown on the Irrigation Plan (where plan is required). All plants (including turf) require watering during plant establishment. Temporary irrigation systems may be installed to facilitate establishment of plants and turf.~~
- ~~d. *Rain Water Collection:* The City encourages the installation of rainwater catchment systems such as eisterns or rain barrels to reduce dependency on the use of potable water for outdoor irrigation.~~

**7. ~~Other Requirements:~~**

- ~~a. *Moisture Sensing Equipment:* Moisture sensing equipment shall be required on automatic irrigation systems to avoid irrigation during periods of sufficient rainfall and/or soil moisture. Rain shut-off switch equipment shall be required on all new irrigation systems and any systems that are significantly modified or repaired. Said equipment shall consist of an automatic mechanical or electronic sensing device or switch that will override the irrigation controller the irrigation system when adequate rainfall has occurred.~~
- ~~b. *Protection of Lines:* The installation of tracer wire along main lines and laterals is strongly encouraged to permit easy location and prevent inadvertent cutting of pipes.~~
- ~~c. *Check Valves:* Check valves may be required to be installed in irrigation heads prevent low head drainage and puddling, when the head exceeds eight (8) feet above the POC.~~

- d. ~~Precipitation Rate:~~ Nozzle precipitation rates for all heads within each valve circuit must be matched.
- e. ~~Pressure Regulating Valves:~~ A pressure regulating valve shall be installed and maintained if static service pressure for the irrigation system is too excessive to allow for valves or heads to operate within the manufacturer's recommendations for that equipment. ~~[ Rationale: The purpose of this requirement is twofold, to protect against system failure during pressure surges, and to avoid wasted water due to operation of the system significantly above commonly used design values.]~~

8. ~~Yard Waste Management, Composting and Use of Mulches:~~

- a. ~~Yard Waste Management:~~ Yard wastes shall not be disposed of or stored by shorelines, in ditches or swales, or near storm drains. ~~[ Rationale: Yard wastes release nutrients as they decompose which may pollute the receiving water. Improper disposal of yard wastes can also contribute to flooding by causing stormwater runoff to backup in drainage systems. In addition, improper disposal may lead to spreading of invasive plants to new areas.]~~
- b. ~~Composting:~~ Shredded yard clippings and leaves should be used for mulch or be composted for use as fertilizer. Diseased organic material should not be stored, composted or used as mulch and should be properly disposed of to avoid spreading disease.
- c. ~~Use of Mulches:~~
  - i. ~~Composting of organic yard wastes provide many benefits and their use is strongly encouraged. The resulting materials are excellent soil amendments and conditioners. Other recycled organic solid waste products are also available and should be used when appropriate.~~
  - ii. ~~Grass clippings are a benefit to lawns by replacing nutrients drawn from the soil and as mulch that helps retain moisture lessening the need to irrigate. Grass clippings should be left on the lawn. Mulching mowers are recommended, because the grass clippings are chopped very finely by special blade and shroud configurations.~~
  - iii. ~~If a conventional mower equipped with a side discharge chute is used, the following practices should be employed. When mowing near the shoreline, direct the chute away from the waterbody. When mowing upland areas, direct the chute back onto the yard, not onto the road or driveway.~~
  - iv. ~~Other mulches (except grass clippings) can be applied and maintained at appropriate depths in planting beds to assist soils in retaining moisture, reducing weed growth, and preventing erosion. These mulches can also be used in places where conditions aren't adequate for or conducive to growing quality turf or ground covers. Mulches are typically wood bark chips, wood grindings, pine straws, nut shells, and shredded landscape clippings.~~
  - v. ~~A layer of organic mulch three (3) inches deep shall be specified on the planting plans in plant beds and around individual trees in turfgrass areas. Use of a byproduct or recycled mulch is recommended. Mulch is not required in annual beds.~~
  - vi. ~~Mulch rings should extend to at least three (3) feet around freestanding trees and shrubs.~~
  - vii. ~~All mulch should be renewed periodically.~~

- ~~viii. Mulches should be kept at least six (6) inches away from any portion of a building or structure. Mulches should be kept two to four (2—4) inches away from all tree trunks and certain types of shrubs and ground covers.~~
- ~~ix. Plastic or other impervious materials shall not be used under mulched areas.~~

~~9. **Installation and Maintenance:** All planting, excluding private residences, shall be installed according to accepted commercial planting procedures and executed by a qualified and licensed landscape contractor using the quality and type of materials recommended by the City Biologist and stated herein.~~

~~10.1. Exemptions to Xeriscaping:~~ Exempted from the provisions of ~~this Article~~ Table 107.69.1, if applicable, are the following:

- a. Golf courses and specialized athletic fields; [*Rationale: These have specialized needs not addressed in the general references, and are usually managed by highly trained professionals*]

- ~~b. One and two-family dwelling units on individual lots.~~

- ~~e.b.~~ Any development that is governed by an approved, final site plan or a valid building permit issued prior to the effective date of this Ordinance, is exempted from retrofitting or meeting the specific provisions of ~~this Article~~ Table 107.69.1. However, no existing development is exempted from meeting the provisions affecting management, maintenance, or the education of maintenance personnel of this Ordinance.

- ~~d.c.~~ Rights-of-way for public utilities, including electrical transmission and distribution lines, and natural gas pipelines.

- ~~e.d.~~ Conditional exemption may be granted by the City Biologist for individual projects if the applicant can, in writing, define the areas of exemption and demonstrate acceptable reasons for the requested exemption.

~~11. **Alternative Compliance:**~~

- ~~a. An applicant may submit a landscape or planting plan which varies from the strict application of the xeriscaping requirements of this Article in order to accommodate unique site features, or characteristics, the preservation of water views or to utilize innovative design.~~

- ~~b. An alternative compliance landscape or planting plan may be approved only upon a finding that it fulfills the purpose and intent of the xeriscaping requirements of the Plan and of this Article as well as or more effectively than would adherence to the strict requirements.~~

- ~~c. In evaluating proposed alternative compliance landscape or planting plans, considerations shall be given to proposals which preserve existing native vegetation and where the design ensures the maximum preservation of existing non-invasive vegetation on the site.~~

## Section 107.70. Landscape Buffer Requirements.

A. *Project Boundary Buffers:*

1. *General Provisions:*

- a. Project Boundary Buffers shall be located along the outer perimeter of the parcel to be developed extending inward from the parcel boundaries. The project Boundary Buffer shall be applied to the sides and back of the property. The TRC has the authority to approve the placement of a buffer at an adequate distance from the parcel boundary when it can be shown that a conflict exists with an existing utility easement.

- b. Buffers on residential developments shall be designated as common areas and shall not be included within lots.
- c. Buffers on nonresidential sites may be included within lots and counted toward setback requirements.
- d. No structures are permitted in buffers except fire hydrants, concrete valve markers, underground utility markers, switches, bus shelters or benches, incidental signs not exceeding two (2) square feet in area, and screening.
- e. No parking is permitted within a buffer zone.
- f. Buffer areas may include portions of the stormwater management system if the applicant demonstrates that the character and intent of the buffer is not diminished. At a minimum, the buffer shall include all of the required plantings at the normal grade of the site at the property line.
- g. Pedestrian access through a buffer to adjacent uses may be permitted.
- h. Utility lines may cross the buffer provided that the amount of buffer compromised is minimized while maintaining the specified number of plantings required in Table 107.70.2.
- i. Trails within a buffer may be permitted provided the character and intent of the buffer is not diminished.

2. *Required Project Boundary Buffers:*

a. Minimum buffers types (i.e. low medium high) required on property boundaries between zoning districts are shown in Table 107.70.1. For the purpose of prescribing appropriate Project Boundary Buffers from the City of Marathon Landscape Design Manual, the following shall apply to Table 107.70.1

- a. H = H Type Buffer = H2, H4, H5, or H6
- b. M = M Type Buffer = M2, M3, or M5
- c. L = Low Type Buffer = L1, or L3

a.b. Minimum width and planting ~~specifications~~ quantities for required project boundary buffers are shown in ~~the table below~~ Table 107.70.2. Substitution of plant materials may be allowed pursuant to Table 107.70.3 provided the character and intent of the buffer is not diminished. A single substitution is permitted per 100 linear feet. General arrangement of plant material within buffers shall be required to substantially comply with the latest edition of the City of Marathon Landscape Design Manual, adopted herein by reference.

b.c. The TRC may reduce the required buffer width by up to 50 percent where it can be shown by the applicant that the reduction is warranted by unique site features or characteristics. This would include, but is not limited to, situations where the buffer would be located adjacent to a waterbody or open space area or if a permanent buffer exists on the adjacent property.

e.d. The following additional buffering shall be provided where off-street loading exists:

- i. Loading bay areas shall be screened from any residential district.
- ii. In the MU land use districts, off-street loading shall be screened from US1.

**Table 107.7066.1**  
Project Boundary Buffer Standards

Zoning District of Subject Property	Zoning District of Adjacent Property															
	A	C-NA	C-OI	I-G	I-M	MU	MU-M	PR	P	R-MH	RH	RM	RM-1	RL	RLC	
A	N/A	H	H	H	H	H	H	H	H	H	H	H	H	H	H	
C-NA	H	N/A	M	H	H	H	H	H	H	H	H	H	H	H	H	
C-OI	H	M	N/A	H	H	H	H	H	H	H	H	H	H	H	H	
I-G	H	H	H	N/A	L	H	H	H	H	H	H	H	H	H	H	
I-M	H	H	H	H	N/A	M	M	H	H	H	H	H	H	H	H	
MU	H	H	H	H	M	N/A	L	M	M	M	M	H	H	H	H	
MU-M	H	H	H	H	M	L	N/A	M	L	M	M	H	H	H	H	
PR	H	H	H	H	H	M	M	N/A	L	M	M	H	H	H	H	
P	H	H	H	H	H	M	L	L	N/A	M	M	H	H	H	H	
R-MH	H	H	H	H	H	M	M	M	M	N/A	M	M	H	H	H	
R-H	H	H	H	H	H	M	M	M	M	M	N/A	M	L	L	L	
RM	H	H	H	H	H	H	H	H	H	M	M	N/A	M	M	L	
RM-1	H	H <sub>r</sub>	H	H	H	H	H	H	H	H	H	M	N/A	M	L	
RL	H	H	H	H	H	H	H	H	H	H	H	M	M	N/A	L	
RL-C	H	H	H	H	H	H <sub>r</sub>	H	H	H	H	H	H	H	L	L	N/A

**Table 107.70.2**  
Project Boundary Buffer Minimum Width and Planting Requirements

Buffer Type	Minimum Width	Canopy Tree	Understory Tree	Non-Deciduous	Shrub	Screening
L-Low	10 feet	2	6	0	6	No
M-Medium	15 feet	4	2	2	16	No
H-High	20 feet	10	5	5	30	Yes

Buffer Type	Buffer Width	Large Tree Qty	Medium Tree Qty	Large Shrub Qty	Medium Shrub Qty	Small Shrub Qty	Ground Cover Qty	Large Palm Qty	Medium Palm Qty
L1	10'	0	5	4	8	26	48	-	-
L2	10'	0	4	0	9	24	72	-	-
L3	10'	3	4	0	6	18	60	-	-
L4	10'	0	4	0	6	24	42	-	-
M1	15'	2	2	6	6	25	92	-	-
M2	15'	3	4	6	6	29	28	-	-
M3	15'	3	4	0	12	18	80	-	-
M4	15'	0	3	0	10	29	48	-	-
M5	15'	0	0	6	17	28	30	-	9
H1	20'	3	0	0	12	42	74	-	-
H2	20'	3	2	9	10	15	54	-	-
H3	20'	2	2	0	6	36	108	-	-
H4	20'	2	4	9	16	32	27	-	3
H5	20'	3	4	9	16	34	27	-	-
H6	20'	0	3	10	12	24	50	-	-

**Table 107.70.3**

Landscape Buffer Substitutes

Buffer Type	Landscape Buffer Possible Substitutes	Tree and Palm Substitute Equivalents	
		Option 1	Option 2

<u>L1</u>	<u>40% Medium Trees</u>	<u>1 Medium Tree= 1 Large Palm</u>	<u>1 Medium Tree= 3 Medium Palms</u>
<u>L2</u>	<u>None</u>	<u>N/A</u>	<u>N/A</u>
<u>L3</u>	<u>50% Medium Trees</u>	<u>1 Medium Tree= 1 Large Palm</u>	<u>1 Medium Tree= 3 Medium Palms</u>
<u>L4</u>	<u>50% Medium Trees</u>	<u>1 Medium Tree= 1 Large Palm</u>	<u>1 Medium Tree= 3 Medium Palms</u>
<u>M1</u>	<u>None</u>	<u>N/A</u>	<u>N/A</u>
<u>M2</u>	<u>50% Medium Trees</u>	<u>1 Medium Tree= 1 Large Palm</u>	<u>1 Medium Tree= 3 Medium Palms</u>
<u>M3</u>	<u>50% Medium Trees</u>	<u>1 Medium Tree= 1 Large Palm</u>	<u>1 Medium Tree= 3 Medium Palms</u>
<u>M4</u>	<u>None</u>	<u>N/A</u>	<u>N/A</u>
<u>M5</u>	<u>30% Large Shrubs</u>	<u>2 Large Shrubs = 3 Medium Palms</u>	<u>1 Large Shrub= 3 Small Palms</u>
<u>H1</u>	<u>None</u>	<u>N/A</u>	<u>N/A</u>
<u>H2</u>	<u>50% Medium Trees</u>	<u>1 Medium Tree= 1 Large Palm</u>	<u>1 Medium Tree= 3 Medium Palms</u>
<u>H3</u>	<u>None</u>	<u>N/A</u>	<u>N/A</u>
<u>H4</u>	<u>30% Large Trees</u>	<u>1 Large Tree = 1 Large Palm</u>	<u>1 Large Tree = 3 Medium Palms</u>
<u>H5</u>	<u>50% Medium Trees</u>	<u>1 Medium Tree= 1 Large Palm</u>	<u>1 Medium Tree= 3 Medium Palms</u>
<u>H6</u>	<u>30% Medium Trees</u>	<u>1 Medium Tree= 1 Large Palm</u>	<u>1 Medium Tree= 3 Medium Palms</u>

**Table 107.70.4**

**Landscape Material Installation Specifications**

<u>MATERIAL TYPE</u>	<u>MINIMUM SPACING</u>	<u>INSTALL CALIPER</u>	<u>INSTALL HEIGHT</u>	<u>CANOPY SPREAD</u>
<u>LARGE TREES</u>	<u>20'- 40'</u>	<u>4"</u>	<u>12'-14'</u>	<u>8'-10'</u>
<u>MEDIUM TREES</u>	<u>15'- 40'</u>	<u>2 1/2"</u>	<u>10'-12'</u>	<u>6'-8'</u>
<u>LARGE SHRUBS</u>	<u>10'- 15'</u>	<u>NA</u>	<u>8'-10'</u>	<u>4'-6'</u>
<u>MEDIUM SHRUBS</u>	<u>5'- 10'</u>	<u>NA</u>	<u>24"-36"</u>	<u>24"-36"</u>
<u>SMALL SHRUBS</u>	<u>3'- 5'</u>	<u>NA</u>	<u>24"-36"</u>	<u>24"-36"</u>

3. *Project Boundary Buffer Standards:*

- a. Examples of appropriate species for planting in buffers are listed in Table 107.68.1, and 107.68.2
- b. Plant materials and installation shall meet the requirements of [Section 107.68](#), [Section 107.69](#) and meet the minimum ranges for spacing, caliper, height and canopy spread as listed in Table 107.70.4
- c. The required planting shall generally be spaced or grouped to provide a natural appearance. The required planting shall be evenly spaced to provide a natural appearance.



- d. The plant materials specified in Table 107.70.2 ~~is represent~~ the minimum materials required per 100 linear feet of buffer; the total quantity of materials required shall be determined by dividing the actual length of the buffer.
- e. ~~Canopy-Large~~ trees shall be planted no closer than four (4) feet from any property line.
- f. Shrubs ~~shall-should~~ be selected that provide a variety of heights at maturity.
- g. Where screening is required or proposed in conjunction with a project boundary buffer (side and rear buffers) ~~as indicated in Table 107.70.1,~~ it shall consist of one (1) of the following:
  - i. A six-foot tall masonry wall;
  - ii. A six-foot tall opaque fence, such as vinyl or wood (no chain-link);
  - iii. Existing dense vegetation not invasive, at least six (6) feet in height; or
  - iv. A berm three (3) feet in height, located entirely within the dense buffer and planted with materials that at maturity shall reach a combined minimum height of six (6) feet.
- h. The location of the wall, fence or berm within the buffer strip shall be subject to TRC determination.
- i. Pedestrian connections through walls or fences that can provide access to adjacent neighborhoods or other uses are encouraged.
- j. Walls and fences shall be landscaped along the entire exterior side so that one-third (1/3) or more of the vertical face of the fence or wall is screened by plantings. The applicant shall be required to demonstrate provision for access and maintenance of landscaping at the time of landscape or planting approval.
- k. Walls and fences more than 60 feet long shall have varying wall alignments, use appropriate scale/massing for planted materials, and include decorative features and sound absorbing or scattering materials.
- l. When a berm is used to form a visual screen in lieu of or in conjunction with a hedge or wall, such berm shall have a stabilized slope of one to three (1:3) rise/run and shall be completely covered with shrubs, sod or other landscape quality living ground cover.
- m. Existing non-invasive vegetation may be used to fulfill buffering and screening requirements where such existing natural vegetation is of sufficient height or can be augmented to reach a sufficient height and opacity to provide an effective visual and acoustical buffer giving consideration to the existing and proposed uses.

*Roadway Buffers:* Specific roadway buffers shall be required as established in [Section 107.71](#), "Streetscape Treatment Types" below. Any vegetation planted near driveways and road intersections shall be selected so that the requirements in Article 5, [Section 107.43](#) for clear sight triangle can be met.

**B. Measurements:**

1. Driveway widths (measured at the inside edge of the buffer) shall not be counted in the calculation of the plant material required.
2. All buffers shall be measured from the future right-of-way line determined during the site plan review, unless additional public utility easement is required between the right-of-way line and the buffer to provide utility clearance.

## Section 107.71. Streetscape Treatment Types.

Streetscape treatments encompass the organization of outdoor space and all elements creating that space, including trees and vegetation, parking areas, hardscape structures such as fences, walls, furniture, and sidewalks, and the correct orientation and proper scale of building facades. Streetscape treatment shall be applied to the front setback, in particular those fronting a street or road.

The following streetscape treatment types shall apply throughout the City:

- A. *Type 1: (A, MU, MU-M, P, PR zoning districts):* It is the expressed intent of Streetscape Treatment Type 1 to provide an environment which mitigates the impacts of automobile-oriented areas in order to make them more livable. This includes reduction of visual clutter, including signage and location of auto parking areas, and the provision of landscaping to enhance and soften the environment through the provision of screening, shade, and buffers. It shall apply to all parcels along US 1, with the exception of the Old Town area.
1. The landscape treatment area shall be prescribed from the buffer types found in Table 107.70.2. The buffer type and minimum width shall be determined by average depth of the property or parcel being developed, redeveloped or substantially improved and shall be prescribed from Table 107.71.1.
  2. Minimum width and planting quantities for required Streetscape Treatment Types are shown in Table 107.70.2. Substitution of plant materials may be allowed pursuant to Table 107.70.3 provided the character and intent of the streetscape treatment is not diminished. A single substitution is permitted per 100 linear feet. General arrangement of plant material within buffers shall be required to substantially comply with the latest edition of the City of Marathon Landscape Design Manual, adopted herein by reference.
  3. Plant materials and installation shall meet the requirements of Section 107.68, Section 107.69, Section 107.70.A.3 and shall meet the minimum ranges for spacing, caliper, height and canopy spread listed in Table 107.70.4

**Table 107.71.1**

<u>Average Lot Depth</u>	<u>Streetscape Buffer width</u>
<u>≤ 101 feet</u>	<u>L- Low</u>
<u>&gt;101 - 299 feet</u>	<u>M- Medium</u>
<u>&gt; 300 feet</u>	<u>H- High</u>

1. ~~be planted within a ten foot wide buffer predominantly with shrubs and native canopy trees of at least two (2) inches caliper at breast height, approximately 50 feet on center.~~
2. ~~A minimum of four (4) understory trees per 240 feet of frontage, or fraction thereof, shall be planted in and about access points. In addition smaller accent trees shall be planted every 120 feet and staggered midway between the large canopy trees.~~
- 3.4. ~~Large canopy and understory medium trees shall be placed in compliance with Section 107.66.A.1, wherever applicable. so as to provide at least 50 percent canopy coverage of sidewalks along US1, except where prohibited by overhead utility restrictions or as required to preserve the water view when traveling along the highway.~~
- 4.5. ~~Plantings within utility easements shall be consistent with any such easement agreement dictating type and height of such plantings at maturity. Plantings of shrubs and small trees may be located within the utility easement upon agreement and approval of FKAA and FKEC only. When the utility~~

easement is narrow, the plantings shall be placed on the road side of the easement. In such instances the planting area shall be a minimum width of five (5) feet between the back of the curb and the sidewalk, in accordance with the Florida Department of Transportation's Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways, latest edition, incorporated in Rule 14-15.002, F.A.C.

~~5.6.~~ Parking spaces shall not be placed on the front of parking lots abutting US1.

~~6.7.~~ All parking not located to the rear of buildings shall be screened from the right-of-way by a landscaped buffer along US1, ~~including a continuous hedge or combination hedge and earth berm providing a three foot high visual screen within two (2) years of planting.~~

~~7.8.~~ Parcels which propose drive-thru windows shall be sited so as to locate such windows to the side or rear of buildings and that the drive isles for those windows be predominantly to the side and rear also.

B. *Type 2: (MU, MU-M):* Detailed design of the streetscape shall be accomplished in concert with the architectural design, specific use standards, streetscape design, and special parking requirements. It shall be applied to the Old Town area along US 1 only.

1. *Parking Standards:*

- a. Parking lots shall be located at the rear or side of street-front uses and shall be screened from the streets, sidewalk, and open spaces by low walls, fences, or low berms in combination with plantings to achieve at least a three-foot high visual screen. Walls or fences must be softened through use of vegetation.
- b. Parking lots and parking garages shall not abut street intersections, be adjacent to squares or parks, or occupy lots that terminate at a vista, except when specifically designed to incorporate massing, scale, and detail that contributes to the adjoining public space.
- c. Adjacent parking lots shall have vehicular connections and shared street access wherever possible.

2. *Land Use Standards:*

- a. All open spaces, including public, conservation, and community spaces, shall be a focal element around which other land uses are organized.
- b. Provisions for alternative transportation shall be included in the overall design including specific accommodations for integration of mass transit facilities.
- c. Development shall be divided into an interconnected grid system.
- d. Appropriate locations for all pedestrian/bicycle access ways shall encourage a continuous system of access. Proposed pedestrian/bicycle access shall connect to existing pedestrian/bicycle access in appropriate manner.

3. *Required Tree Plantings:*

- a. Native canopy street trees shall be required along both sides of US1. Spacing is determined by species type. Unless the planting of the canopy tree will interfere with the water views when traveling along US1, street trees shall be spaced an average of 40 feet on center. Examples of appropriate canopy trees are identified in Table 107.68.1.
- b. All planting shall be coordinated with existing and planned utilities and their infrastructure in such a way as to not interfere with those utilities.
- c. Street trees shall be planted between the street and the sidewalk whenever space permits to protect pedestrians and calm traffic. In such instances the planting area shall be a minimum width of five (5) feet between the back of the curb and the sidewalk, in accordance with the Florida Department of Transportation's Manual of Uniform Minimum Standards for

Design, Construction and Maintenance for Streets and Highways, latest edition, incorporated in Rule 14-15.002, F.A.C.

C. ~~Street Treatment~~ Type 3: (All zoning districts on other City streets):

1. All multi-family and nonresidential developments shall be required to provide ~~one (1) of the following buffers~~ a Low type buffer prescribed from the buffer types found in Table 107.70.2 along the entire street frontage:
  - a. Minimum width and planting quantities for required Streetscape Treatment Types are shown in Table 107.70.2. Substitution of plant materials may be allowed pursuant to Table 107.70.3 provided the character and intent of the streetscape treatment is not diminished. A single substitution is permitted per 100 linear feet. General arrangement of plant material within buffers shall be required to substantially comply with the latest edition of the City of Marathon Landscape Design Manual, adopted herein by reference.
  - b. Plant materials and installation shall meet the requirements of Section 107.68, Section 107.69, Section 107.70.A.3 and shall meet the minimum ranges for spacing, caliper, height and canopy spread listed in Table 107.70.4
    - a. Two (2) canopy trees and two (2) understory trees per 100 linear feet of property frontage, located within a ten-foot wide landscape buffer. Spacing of canopy trees will be determined by species, but in no case shall they be planted further than 40 feet on center. Examples of appropriate canopy trees are identified in Table 107.68.1.
    - b. Under utility lines only, four (4) understory trees per 100 linear feet of property frontage, located within a ten-foot wide landscape buffer.
2. All single- and two-family residential uses shall be required to ~~provide a minimum of two (2) canopy street trees for every 100 linear feet of property frontage along local streets. Spacing will be determined by species, but in no case shall they be planted further than 50 feet on center. Examples of appropriate canopy trees are identified in Table 107.68.1.~~ comply with Section 107.69.C-E., when applicable and Section 107.72.
3. Utility allocations shall be designed to provide utilities' required separation between trees and utility facilities.
4. Street trees shall be planted between the street and the sidewalk whenever space permits to protect pedestrians and calm traffic. In such instances the planting area shall be a minimum width of five (5) feet between the back of the curb and the sidewalk, in accordance with the Florida Department of Transportation's Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways, latest edition, incorporated in Rule 14-15.002, F.A.C.
5. For streets without curbing, all street trees shall be planted no further than ten (10) feet from the back of right-of-way.

## **Section 107.72 Residential Requirements**

(A) Notwithstanding the requirements in Section 107.71.C above, all new and substantially improved residential development, as defined in Section 107.100, shall comply with the following standards:

(1) All one-family detached lots that are twelve thousand (12,000) square feet or larger shall be planted as follows:

(i) Plant a minimum of four (4) large trees and three (3) medium trees or palms per lot.

(ii) At least two (2) of the large trees shall be planted on the south and/or west and/or east side and within thirty (30) feet, where feasible, of the residential structure.

(iii) At least one (1) of the required large trees and one (1) of the medium trees shall be located in the front yard or, in the case of a corner lot, in the front or side yard facing the street. This shade tree may also count toward fulfillment of the landscaping for energy conservation requirement in (ii), above, if located in accordance with such requirement.

(2) All one-family detached lots that are seven thousand, five hundred (7,500) square feet or larger but less than twelve thousand (12,000) square feet shall be planted as follows:

(i) Plant a minimum of three (3) large trees and three (3) medium trees or palms per lot.

(ii) At least one (1) of the large trees shall be planted on the south and/or west and/or east side and within thirty (20) feet, where feasible, of the residential structure.

(iii) At least one (1) of the required large trees shall be located in the front yard or, in the case of a corner lot, in the front or side yard facing the street. This large tree may also count toward fulfillment of the landscaping for energy conservation requirement in (ii), above, if located in accordance with such requirement.

(3) All one-family detached lots that are larger than four thousand, five hundred (4,500) square feet but less than seven thousand, five hundred (7,500) square feet shall be planted as follows:

(i) Plant a minimum of three (3) large trees and three (2) medium trees or palms per lot.

(ii) At least one (1) of the large trees shall be planted on the south and/or west and/or east side and within thirty (20) feet, where feasible, of the residential structure.

(iii) At least one (1) of the required large or medium trees shall be located in the front yard or, in the case of a corner lot, in the front or side yard facing the street. This large tree may also count toward fulfillment of the landscaping for energy conservation requirement in (ii), above, if located in accordance with such requirement.

(4) All one-family detached lots that are four thousand, five hundred (4,500) square feet or less in size shall be planted as follows:

(i) Plant a minimum of two (2) large trees and two (2) medium trees or palms per lot.

(ii) At least one (1) of the required large or medium trees shall be located in the front yard or, in the case of a corner lot, in the front or side yard facing the street.

(5) Townhouses, One-Family Attached and Duplex Dwellings, Arranged side-by side shall be planted as follows:

(i) Plant a minimum of one and one-half (1.5) large trees and one (1) medium tree per dwelling unit located on individual lots and/or common open space to best fulfill the objectives and design guidelines of this section.

(6) Townhouses, One-Family Attached and Duplex Dwellings, Arranged over-under shall be planted as follows

(i) Plant a minimum of two (2) large trees and one and one-half (1.5) medium trees per dwelling unit located in common open space to best fulfill the objectives and design guidelines of this section. Fractional amounts shall be rounded up.

(B) An existing native tree, equal or exceeding four (4) inches diameter at breast height (dbh) located on an individual lot within thirty (20) feet of a dwelling unit may be counted toward fulfillment of the requirement for a tree on that lot, provided that the size (dbh), genus, condition, and location of each tree to be counted toward the fulfillment of this requirement is shown on the landscape plan. The site and landscape plan must also demonstrate that a minimum of seventy percent (70%) of the critical root zone of such tree will remain undisturbed. The Critical Root Zone (“CRZ”) of a tree shall be determined by the drip line of the canopy.

(C) When a project boundary buffer as required by Section 107.70 Landscape Buffer Requirements, is located on a single-family detached lot, the following shall apply:

(1) If less than twenty percent (20%) of the area of the lot is occupied by the buffer strip, none of the trees required by Section 107.72 may be located in the buffer strip.

(2) If more than twenty percent (20%) of the area of the lot is occupied by the buffer strip, one (1) of the large trees or two (2) of the medium trees required by Section 107.72, Residential Requirements, may be located in the buffer strip and may also count toward fulfillment of the boundary buffer requirement.

### **Section 107.7273. Alternative Compliance.**

~~(d)~~(a) The provisions of this article shall be liberally construed to effectively carry out the purpose and the intent of the Plan and of this article in the interest of the health, safety and welfare of the residents of the City.

~~(e)~~(b) An applicant may submit a landscape or planting plan which varies from the strict application of the requirements of this article in order to accommodate unique site features, or characteristics, the preservation of water views or to utilize innovative design.

~~(f)~~(c) An alternative compliance landscape or planting plan may be approved only upon a finding that it fulfills the purpose and intent of the Plan and of this article as well as or more effectively than would adherence to the strict requirements.

~~(g)~~(d) In evaluating proposed alternative compliance landscape or planting plans, considerations shall be given to proposals which preserve existing native vegetation and use ~~xeriscape~~ Florida Friendly and other low water use landscape design principles and where the design ensures the maximum preservation of existing vegetation on the site.

**Sponsored By:** Garrett  
**Planning Commission Public Hearing Date:** June 26, 2023  
**City Council Public Hearing Date:** July 11, 2023  
August 8, 2023  
**Enactment Date:** August 8, 2023

**CITY OF MARATHON, FLORIDA  
ORDINANCE 2023-XXX**

**AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING CHAPTER 107, ARTICLE 8 ENTITLED “LANDSCAPING” 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 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**, a Florida-Friendly Landscape promotes the conservation of water by the use of site adapted plants and efficient watering methods which generally results in a long-term reduction of irrigation, fertilizer, and pesticide requirements, costs, energy, and maintenance; and

**WHEREAS**, a Florida-Friendly Landscape encourages a reduction of total energy expenditures such as water pumping and treatment, manufacture and shipping of fertilizers, insecticide, and other gardening chemicals, operation and maintenance of mowers, edgers, blowers and other combustion based yard equipment, as well as labor; and

**WHEREAS**, community-wide Florida-Friendly Landscape efforts are designed to save significant amounts of water to preserve local water supplies such that cumulative benefits may reduce or postpone the need for community potable water supply expansion; and

**WHEREAS**, The Florida Legislature enacted Florida Statutes, Chapter 481, Part II and the Board of Landscape Architecture adopted Rule 61-G-10 Florida Administrative Code, which defines and regulates the practice of landscape architecture; and

**WHEREAS**, the City does not want to unduly constrain development within the City of Marathon, so long as the growth is managed and environmentally appropriate; 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 107, “General Development Standards,” Article 8, “Landscaping,” as depicted in Exhibit A.

**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 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 the Department of Economic Opportunity pursuant to Chapters 163 and 380, Florida Statutes.

**ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 8<sup>TH</sup> DAY OF AUGUST 2023.**

**THE CITY OF MARATHON, FLORIDA**

---

**Luis Gonzalez, 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:** June 26, 2023  
**To:** The City of Marathon Planning Commission  
**From:** Brian Shea, Planning Director

**Agenda Items:** An Ordinance Of The City Of Marathon, Florida, Amending Chapter 107, Article 2 Entitled “Transfer Of Building Rights”, Specifically Section 107.17. Entitled “General Provisions”, 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:**

The Planning staff recommends approval of the Ordinance to further clarify the general provisions as they apply to the process for the Transfer of Building Rights and the duration of the use of the right.

**APPLICANT:** City of Marathon

**REQUEST:** Amend City of Marathon Land Development Regulations in order to further clarify the general provisions as they apply to the process for the Transfer of Building Rights and the duration of the use of the right.

### **Proposed Changes:**

Section 107.17 General Provisions

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F. Duration of Right to Use: After its transfer, the right to use the TBR would extend only for the period in which the owner of the receiving site must complete the conditions of development. The Director may approve an additional transfer should the development not occur. The additional transfer shall document the original sending site in the Deed of Transfer to ensure compliance with the provisions of this Article.

### **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;**

The proposed amendment codifies the existing Administrative Interpretation (attached for reference). The City Council and staff understand that projects may not be completed as planned and approved under conditions of development. Should that occur, the building right(s) originally transferred under the approvals may then become available for thoughtful and managed development elsewhere in town.

**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 protect the environment. Second, the Ordinance does not allow any additional impact on environmentally sensitive areas. 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 Amendments are consistent with and furthers the goals of the City of Marathon Comprehensive Plan and Land Development Regulations.

**RECOMMENDATION:**

The Planning staff recommends approval of the Ordinance to further clarify the general provisions as they apply to the process for the Transfer of Building Rights and the duration of the use of the right.



# CITY OF MARATHON, FLORIDA

9805 Overseas Highway, Marathon, Florida 33050  
Phone: (305) 743-4111  
www.ci.marathon.fl.us

## MEMORANDUM Planning Department

**DATE:** October 20, 2021

**TO:** Planning Staff, Legal

**FROM:** Brian Shea, Planning Director

**SUBJECT:** Administrative Interpretation 2021-01 – Interpretation of the Chapter 107 Article 2 Entitled Transfer of Building Rights

### **BACKGROUND:**

Questions have arisen regarding the TBR/TDR process in Chapter 107 Articles 2 and 3. It has been suggested by staff that the language should be read to mean that building and/or development rights may only be transferred one time. Said another way, it has been suggested that once a building and/or development right is transferred from site A to site B, that right can never be transferred from site B to site C, even if the right has not been built and/or used.

### **ASSESSMENT:**

A copy of the existing Chapter 107 Article 2 is attached herein as Exhibit 1.  
Below is an excerpt from Chapter One of the Comprehensive Plan pertaining the TBRs.

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

a. The transfer of density and building rights within the City's boundaries shall attempt to achieve the following:

1. Protect environmental resources in balance with the protection of property rights;
2. Encourage the replacement of substandard structures, non-conforming structures, structures within environmentally sensitive habitat; structures subject to repetitive flood damage, and units or non-residential square footage which exceeds density limitations;
3. Facilitate redevelopment and revitalize the commercial centers by concentrating mixed use activities;
4. Facilitate the redevelopment and revitalization of hotels and motels in the City;
5. Protect housing affordability and facilitate the provision of new affordable housing units throughout the City;
6. Redistribute existing residential units or densities from more environmentally sensitive properties to less environmentally sensitive properties to encourage infill development and achieve planned densities without increasing the overall density;
7. Protect environmentally sensitive sites through the removal of existing dwelling units or allocated development rights;
8. Encourage the placement of conservation easements on environmentally sensitive or flood prone parcels of land;



## CITY OF MARATHON, FLORIDA

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9. Further the public good and the goals, objectives and policies of the Plan;
10. Protect housing affordability and facilitate the provision of new affordable housing units throughout the City.

### c. Transfer of Building Rights (TBRs)

1. Transferable Building Rights (TBRs) shall only be transferable from a FLUM category of lower density to one of equal or higher density as defined in Table 1-1 of the Comprehensive Plan. Properties with a FLUM category of Conservation shall not be eligible as TBR receiver sites. Transferable Building Rights (TBRs) are only transferable to receiver site properties whose habitats are deemed by the City Biologist to be less sensitive than the sender site properties as defined in policy 4-1.5.8
2. The transfer of TBRs is subject to approval by the City based on the criteria established in c. 1. and 2. above. All transfers of TBRs must identify the removal of the TBRs from the sender site and their transfer to the receiving site and be recorded in the chain of title for both properties.
3. Alternatively, TBRs may be "banked" with the City for a period not to exceed two (2) years. TBRs so banked must identify the removal of the TBRs from the sender site and that they have been banked with the City pursuant to a specific agreement with the City, which shall be recorded in the chain of title of the sending site.

### **INTERPRETATION:**

Pursuant to Section 102.138, the Director of Planning is authorized to interpret all provisions of the LDRs. Further Section 100.06.B states that "In the event that any question arises concerning the application of regulations, performance standards, definitions, development criteria, or any other provision of the LDRs, the Director shall be responsible for interpretation and shall look to the Plan for guidance."

The intent of the Comprehensive Plan and the LDRs is clear, to move existing building rights from the sending site to the receiver site. Previous adopted versions of the Comprehensive Plan directed that LDRs be developed and adopted to facilitate the transfer of units from over dense and environmental properties to aid in infill development of less environmentally sensitive lands. This is further expanded on in Section 107.13 of the LDRs.

Based upon 107.17.F, the right is only valid for use for so long as it takes to complete the proposed development on the receiver site. This is why a description of the proposed development is required as part of 107.16.B of the transfer process. Additionally, a concept meeting is encouraged per 107.16.A to understand any limitations that may be imposed on both the sending and receiving sites based upon those proposed developments/redevelopments. Therefore, having rights temporarily sit on a property is not the intent of the code.

Banking of rights is only enumerated in the Comprehensive Plan as noted above. If an applicant's intent is to temporarily have a right float, then it must be addressed in a specific agreement with the City. This allows for the City to act as a temporary repository for the rights. In the instance of Conditional Use approvals, the approval is valid for one (1) year per Section 102.79.C. Section 102.79.D allows the Director to grant a one-time extension not to exceed one (1) year. Therefore, the City is able to act as the repository for the allocations based upon the proposed Conditional Use approval. Another example in which the City would act as the "bank" would be as part of the platting process by holding the allocations while the parcels are being platted



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and legal descriptions created for the new receiver sites. The specific agreement mentioned in the Comprehensive Plan could be accomplished as a stand-alone Development Agreement or incorporated into a Development Agreement tied to a Conditional Use or other development approval. This may allow for a time period to exceed the 2 years if found to be consistent with the LDRs upon approval from Council per Florida Statute.

There are two known instances where a transfer has previously occurred, and a second transfer is proposed. The first is 00326770-000000 in which there was a Conditional Use and Development Agreement proposed in 2019 to build affordable housing. The second instance required a TBR to occur to resolve a code case, that was then assumed into a much larger Conditional Use and Development Agreement. These, and any other multiple TBR applications done prior to this administrative interpretation will have to be addressed on a case-by-case basis.

In short, a TBR is to go from Site A to Site B. A TBR is not supposed to then go from Site B further to Site C. However, a TBR can, with an agreement, go from Site A to “bank” at the City, and eventually land at Site B.

Brian Shea  
Planning Director, AICP



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## EXHIBIT 1



## ARTICLE 2. - TRANSFER OF BUILDING RIGHTS

### Section 107.13. - Purpose and Intent.

The purpose of this Article is to provide for the transfer of existing lawfully established dwelling units, transient units, and commercial floor area from their existing locations to other locations in the City. Through the transfer of building rights, it is the intent of this Article to reduce and reallocate excess densities; provide alternatives to BPAS through the use of existing building rights; eliminate uses which are inconsistent with these regulations and the Comprehensive Plan; encourage the redevelopment and revitalization of the City's existing commercial centers; to preserve and protect environmentally sensitive lands; protect existing affordable housing; provide incentives for the creation of additional affordable housing and recognition of private property rights.

### Section 107.14. - Types of Transfers.

Transfer of building rights is limited to the following activities:

- A. Transferring lawfully established commercial floor area from one (1) site to another site.
- B. Transferring a lawfully established transient unit from one (1) site to another site.
- C. Transferring a lawfully established dwelling unit from one (1) site to another, more specifically:
  1. Removing a market rate dwelling unit from one (1) site and rebuilding on another site as a market rate or deed-restricted affordable dwelling unit.
  2. Removing a deed-restricted affordable dwelling unit; a dwelling unit that is subsidized by or constructed with public money (including, but not limited to, the Monroe County Land Authority, SHIP, HOME, CDBG, etc.); or a permanent RV from one (1) site and rebuilding as a deed-restricted affordable dwelling unit on another site.

### Section 107.15. - Site Criteria.

#### A. *Sending Site Criteria:*

1. The parcel must have a documented building right.
2. The sending site shall not have any open permits or active code violations.
3. All bonds, assessments, back city taxes, fees and liens (other than mortgages) affecting the parcel shall be paid in full prior to recordation of the warranty deed for the transfer of the building rights.

#### B. *Receiving Site Criteria:* The parcel must:

1. Be classified by the City Biologist as less environmentally sensitive than the sending site, as scored using the BPAS scoring criteria, established in Article 1 of this Chapter applicable to the type of use;
2. Be zoned to allow the requested use; and
3. Meet all provisions of the LDRs and the Comprehensive Plan relating to the type and magnitude of the proposed development.

Section 107.16. - Transfer Process.

- A. The developer of a receiving site is encouraged to schedule a concept meeting with staff prior to submission of an application for transfer. The purpose of the meeting is to discuss the development and/or redevelopment of the sending and receiving sites and to understand any limitations that may be imposed upon the sending and receiving sites.
- B. The developer of a receiving site shall make application for the approval of the transfer of the building right(s) on a form provided by the City, and provide such information requested by the City to approve the transfer. At a minimum, the information shall include the following:
  1. Identification of the sending and receiving sites;
  2. Proof of ownership of the receiving site and the building right(s) from the sending site; and
  3. A description of the proposed development or redevelopment of the sending and receiving sites.
- C. The City will review the application to determine:
  1. Compliance with the receiving site criteria;
  2. If the proposed use of the receiving site can be permitted as of right or requires conditional use approval. Development plans and approvals for the receiving site shall be subsequently processed as provided in the Comprehensive Plan and the LDRs according the magnitude and type of the development proposed for the site; and
  3. The validity of the sending site building right(s) (e.g. the building right(s) have a valid "Determination of Building Right" issued by the City as per Article 23 "Verification of Building Right" of Chapter 102 and the right(s) has not been previously transferred).
- D. Upon approval, the City will issue the receiving site a TBR permit using a unique identifier number for tracking and monitoring by the City. This permit may include conditions of approval.

Section 107.17. - General Provisions.

In addition to the affordable housing requirements of Section 107.18, below, the transfer of building rights shall be subject to the following:

- A. *Deed of Transfer:* Prior to the issuance of a building permit authorizing the development of the TBR on the receiving site, a deed of transfer shall be recorded in the chain of title of the sending site containing a covenant prohibiting the further use of the building right(s) utilized;
- B. *Warranty Deed:* A warranty deed shall be recorded in the chain of title of the receiving site evidencing the transfer of the building right; however, all bonds, assessments, back City taxes, fees and liens (other than mortgages) affecting the parcel shall be paid in full prior to recordation of the warranty deed for the transfer of the building right; and
- C. *Sending or Affordable Housing Site Compliance:* Prior to issuance of a Certificate of Occupancy on the receiving site, the sending site and, if applicable, the Affordable Housing Site, must be brought into compliance with the requirements of the Code and any conditions of approval required by the TBR permit must be met. These conditions may include, but are not limited to:
  - 1. Bringing the sending site and, if applicable, the Affordable Housing Site, into compliance with landscaping, bufferyards, waste treatment, stormwater, and access requirements;
  - 2. In the case of a nontransient dwelling unit, the structure containing the building right to be transferred may be demolished and a cash-in-lieu payment pursuant to Subsection 107.18 B. hereof shall be made to the City, or must obtain a BPAS allocation to either continue use of the existing structure on the sending site or, if demolished, to rebuild the structure on the sending site or, if applicable, the Affordable Housing Site; and
  - 3. The owner of such structure(s) shall upgrade the roof, electric and plumbing of any structure to meet the most recent requirements of the Florida Building Code, and must provide storm shutters that comply with the Florida Building Code. If the structure is rebuilt, the Certificate of Occupancy for such structure must be obtained prior to issuance of the Certificate of Occupancy on the receiving site.
- D. *Environmental Mitigation:*
  - 1. For parcels which contain tropical hardwood hammocks, palm hammocks or high quality wetlands, as determined by the City Biologist, from which less than all building rights have been transferred, the following will be required:
    - (a) A restrictive covenant shall be recorded with the Monroe County Clerk of the Court, at the applicant's expense, restricting transfer of building rights back to the parcel; and
    - (b) The sending site shall be restored pursuant to a restoration plan approved by the

City Biologist. The restoration shall be certified as completed by the City Biologist within six (6) months from the approval of the transfer.

2. For parcels which contain tropical hardwood hammocks, palm hammocks or high quality wetlands, as determined by the City Biologist, from which all building rights have been transferred, the following will be required:

- (a) A Grant of Conservation Easement shall be recorded with the Monroe County Clerk of the Court, at the applicant's expense, permanently restricting the sending site as open space; and
- (b) The sending site shall be restored pursuant to a restoration plan approved by the City Biologist. The restoration shall be certified as completed by the City Biologist within six (6) months from the approval of the transfer.

- E. *Allocation Availability:* The City will endeavor to make available to applicants hereunder affordable housing BPAS allocations for purposes of meeting the affordable housing requirements of this Article. The City, however, shall have no obligation to make such allocations available to any particular application hereunder, and shall have no liability to any applicant hereunder or any third party if additional affordable housing BPAS allocations have not been authorized by the State Department of Community Affairs or are otherwise not available.
- F. *Duration of Right to Use:* After its transfer, the right to use the TBR would extend only for the period in which the owner of the receiving site must complete the conditions of development.

#### Section 107.18. - Affordable Housing Requirements.

An applicant proposing to transfer any non-transient dwelling unit building right must comply with one (1) of the following "Affordable Housing" requirements:

- A. *Replacement:* For each non-transient dwelling unit building right transferred as market rate, the applicant may choose to reconstruct or rehabilitate not less than 30 percent of an affordable deed restricted dwelling unit on the sending site, the receiving site or some other acceptable site in the City (the "Affordable Housing Site"). In the event of reconstruction, this shall include, but is not limited to, bringing the sending site or the Affordable Housing Site, as the case may be, into compliance with all setbacks, stormwater, flood elevation, landscaping, bufferyards, and open space.
- B. *Building code, and fire code requirements:* In the event of rehabilitation, this shall include, but is not limited to; bringing the sending site and any of its remaining structures into compliance with all stormwater, landscaping, building code (but only as to roof, electric,

plumbing and storm shutters), and fire code requirements.

- C. *Affordable Housing Program Fund:* In lieu of Subsection A. above, the applicant may choose, for each dwelling unit building right transferred as market rate, to make a cash payment to the City's affordable housing program fund in an amount not less than 10 percent (to be reviewed at least annually and which may be adjusted from time to time by majority Resolution of the City Council) of the affordable housing cash-in-lieu payment per building right then in effect, as amended from time to time by Resolution of the Council (e.g. in 2006, one (1) building unit equals \$200,000 payment to affordable housing fund).
- D. *Land Donation:* In lieu of the foregoing, the applicant may choose to donate a buildable parcel located in the City suitable for the development of affordable housing with a value that meets the minimum requirements of Subsections A. and B. above, such parcel to be acceptable to the City in its reasonable discretion.
- E. *Alternative Compliance:* The applicant may choose, with the City's consent, some combination of the above Subsections.

(Ord. No. 2009-12, § 2, 3-31-2009)

## Section 107.17. General Provisions.

In addition to the affordable housing requirements of Section 107.18, below, the transfer of building rights shall be subject to the following:

- A. *Deed of Transfer:* Prior to the issuance of a building permit authorizing the development of the TBR on the receiving site, a deed of transfer shall be recorded in the chain of title of the sending site containing a covenant prohibiting the further use of the building right(s) utilized;
- B. *Warranty Deed:* A warranty deed shall be recorded in the chain of title of the receiving site evidencing the transfer of the building right; however, all bonds, assessments, back City taxes, fees and liens (other than mortgages) affecting the parcel shall be paid in full prior to recordation of the warranty deed for the transfer of the building right; and
- C. *Sending or Affordable Housing Site Compliance:* Prior to issuance of a Certificate of Occupancy on the receiving site, the sending site and, if applicable, the Affordable Housing Site, must be brought into compliance with the requirements of the Code and any conditions of approval required by the TBR permit must be met. These conditions may include, but are not limited to:
  1. Bringing the sending site and, if applicable, the Affordable Housing Site, into compliance with landscaping, bufferyards, waste treatment, stormwater, and access requirements;
  2. In the case of a nontransient dwelling unit, the structure containing the building right to be transferred may be demolished and a cash-in-lieu payment pursuant to Subsection 107.18 B. hereof shall be made to the City, or must obtain a BPAS allocation to either continue use of the existing structure on the sending site or, if demolished, to rebuild the structure on the sending site or, if applicable, the Affordable Housing Site; and
  3. The owner of such structure(s) shall upgrade the roof, electric and plumbing of any structure to meet the most recent requirements of the Florida Building Code, and must provide storm shutters that comply with the Florida Building Code. If the structure is rebuilt, the Certificate of Occupancy for such structure must be obtained prior to issuance of the Certificate of Occupancy on the receiving site.
- D. *Environmental Mitigation:*
  1. For parcels which contain tropical hardwood hammocks, palm hammocks or high quality wetlands, as determined by the City Biologist, from which less than all building rights have been transferred, the following will be required:
    - (a) A restrictive covenant shall be recorded with the Monroe County Clerk of the Court, at the applicant's expense, restricting transfer of building rights back to the parcel; and
    - (b) The sending site shall be restored pursuant to a restoration plan approved by the City Biologist. The restoration shall be certified as completed by the City Biologist within six (6) months from the approval of the transfer.
  2. For parcels which contain tropical hardwood hammocks, palm hammocks or high quality wetlands, as determined by the City Biologist, from which all building rights have been transferred, the following will be required:
    - (a) A Grant of Conservation Easement shall be recorded with the Monroe County Clerk of the Court, at the applicant's expense, permanently restricting the sending site as open space; and
    - (b) The sending site shall be restored pursuant to a restoration plan approved by the City Biologist. The restoration shall be certified as completed by the City Biologist within six (6) months from the approval of the transfer.

- E. *Allocation Availability:* The City will endeavor to make available to applicants hereunder affordable housing BPAS allocations for purposes of meeting the affordable housing requirements of this Article. The City, however, shall have no obligation to make such allocations available to any particular application hereunder, and shall have no liability to any applicant hereunder or any third party if additional affordable housing BPAS allocations have not been authorized by the State Department of Community Affairs or are otherwise not available.
  
- F. *Duration of Right to Use:* After its transfer, the right to use the TBR would extend only for the period in which the owner of the receiving site must complete the conditions of development. The Director may approve an additional transfer should the development not occur. The additional transfer shall document the original sending site in the Deed of Transfer to ensure compliance with the provisions of this Article.

**Sponsored By:** Garrett  
**Planning Commission Public Hearing Date:** June 26, 2023  
**City Council Public Hearing Date:** July 11, 2023  
August 8, 2023  
**Enactment Date:** August 8, 2023

**CITY OF MARATHON, FLORIDA  
ORDINANCE 2023-XXX**

**AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING CHAPTER 107, ARTICLE 2 ENTITLED “TRANSFER OF BUILDING RIGHTS”, SPECIFICALLY SECTION 107.17. ENTITLED “GENERAL PROVISIONS”, 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 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**, it is the City’s intent to amend the LDRs to ensure redevelopment of TBRs should approved development not commence; and

**WHEREAS**, the City does not want to unduly constrain development within the City of Marathon, so long as the growth is managed and environmentally appropriate; 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 107, “General Development Standards,” Article 2, “Transfer of Building Rights,” Section 107.17 as depicted in Exhibit A.

**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 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 the Department of Economic Opportunity pursuant to Chapters 163 and 380, Florida Statutes.

**ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 8<sup>TH</sup> DAY OF AUGUST 2023.**

**THE CITY OF MARATHON, FLORIDA**

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**Luis Gonzalez, Mayor**

AYES:

NOES:

ABSENT:

ABSTAIN:

**ATTEST:**

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Diane Clavier, City Clerk

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

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Steven Williams, City Attorney



## PLANNING COMMISSION AGENDA STATEMENT

Meeting Date: June 26, 2023  
To: Planning Commission  
From: Brian Shea, Planning Director

Agenda Item: An Ordinance By The City Of Marathon, Florida, Amending Chapter 108, Article 2 (“Nonconforming Structures”) By Deleting A Portion Of Section 108.15 Titled “Additional Standards For Nonconforming Sexually Oriented Businesses.”; Specifically, Subsection B Part 2 To Comport With Modern Constitutional Constraints; Providing For The Repeal Of All Ordinances Or Parts Thereof Found To Be In Conflict; Providing For Severability; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity After Final Adoption By The City Council; Providing For Inclusion In The Code Of Ordinances And Providing For An Effective Date.

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### **RECOMMENDATION:**

Staff recommends APPROVAL

### **BACKGROUND:**

**APPLICANT:** City of Marathon

### **REQUEST:**

The draft ordinance has been proposed to modify language in Chapters 108, Article 2, of the City of Marathon Land Development Regulations, as they pertain to nonconforming signs that have previously been resolved under the updated Sign ordinance.

### **Purpose of Proposed Amendment:**

The purpose of the amendment is to strike the language that is outdated and rely on the constitutionally complaint sign language that has already been amended.

### **AUTHORITY**

#### **Section 102.26. Planning Commission Recommendation.**

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

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

1. The need and justification for the change;

2. The consistency of the proposed amendment with the Comprehensive Plan; and
  3. Whether the proposed change shall further the purposes of the LDRs, and other City Codes, regulations and actions designed to implement the Comprehensive Plan.
- C. *Findings:* The PC shall make a finding of whether the proposed amendment is consistent with the Comprehensive Plan and a recommendation shall be prepared and forwarded to the Council, indicating if the proposed amendment should be:
1. Approved as proposed;
  2. Approved with amendments proposed by the PC; or
  3. Denied

**Section 102.27. - Hearing(s) by Council.**

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

**Section 102.28. - Action by Council.**

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

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

**ANALYSIS OF LAND DEVELOPMENT REGULATION TEXT AMENDMENTS:**

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

**A. The need and justification for the change;**

On June 15, 2015, the Supreme Court decided the case of *Reed v. Town of Gilbert*, 576 U.S. 155 (2015), which set a new constitutional standard for which a municipal sign ordinance could and could not regulate. Because of the regulations imposed by the Supreme Court, the current iteration of the City of Marathon's Code of Ordinance Chapter 108, Section 108.15(B)(2) has become outdated and in need of being updated.

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

Policy 7-1.4.2 states that the City shall continue to maintain Land Development Regulations, which include provisions to minimize the impacts of signs on the scenic beauty of the City. This amendment ensures the LDRs are maintained and constitutionally valid.

**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 ensuring constitutional validity.

**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  
**Planning Commission Public Hearing Date:** June 26, 2023  
**City Council Public Hearing Dates:** July 11, 2023  
August 8, 2023  
**Enactment Date:** August 8, 2023

**CITY OF MARATHON, FLORIDA  
ORDINANCE 2023-XX**

**AN ORDINANCE BY THE CITY OF MARATHON, FLORIDA, AMENDING CHAPTER 108, ARTICLE 2 (“NONCONFORMING STRUCTURES”) BY DELETING A PORTION OF SECTION 108.15 TITLED “ADDITIONAL STANDARDS FOR NONCONFORMING SEXUALLY ORIENTED BUSINESSES.”; SPECIFICALLY, SUBSECTION B PART 2 TO COMPORT WITH MODERN CONSTITUTIONAL CONSTRAINTS; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS THEREOF FOUND TO BE IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY AFTER FINAL ADOPTION BY THE CITY COUNCIL; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Local Government Comprehensive Planning and Land Development Regulations 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, pursuant to Sections 380.05 and 380.0552, *Florida Statutes*; and

**WHEREAS**, Florida 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**, the City of Marathon (“City”) is a municipal corporation of the State of Florida with such power and authority as has been conferred upon it by the Florida Constitution and Chapter 166, *Florida Statutes*, and

**WHEREAS**, on June 15, 2015, the Supreme Court decided the case of *Reed v. Town of Gilbert*, 576 U.S. 155 (2015), which set a new constitutional standard for which a municipal sign ordinance could and could not regulate; and

**WHEREAS**, because of the regulations imposed by the Supreme Court, the current iteration of the City of Marathon’s Code of Ordinance Chapter 108, Section 108.15(B)(2) has become outdated and in need of being updated.

**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.** “Additional Standards for Nonconforming Sexually Oriented Businesses.” is hereby amended to read as follows:

Section 108.15. – Additional Standards for Nonconforming Sexually Oriented Businesses.

A. *Purpose and Intent:* On the date of adoption of new standards for the location of sexually oriented businesses, there are sexually oriented businesses that already exist but that fail to conform to the location requirements imposed in the new standards. In each case, the nonconformity involves proximity to residential neighborhoods or other sensitive uses. To balance the interests of these established businesses with the interests of the affected neighborhoods and other sensitive uses, the City Council has determined that such uses should be allowed to continue to operate but should be subject to additional standards to mitigate the impacts of their proximity to these sensitive uses.

B. *Standards:* Any sexually oriented business that is a lawful nonconforming use because it is located in a zoning district that does not permit such use or because it does not conform to the separation requirements of Chapter 104 "Use Regulations" shall be subject to the following additional standards:

1. *Operating Hours:* Each such business that offers on-premises entertainment (including live entertainment, motion pictures, videos, arcade booths, modeling, or any other form of on-premises entertainment) shall be closed from 2:00 a.m. to 9:00 a.m. each day. This restriction on operating hours shall not apply to a nonconforming business that simply offers retail goods for sale or rental.
- ~~2. *Restrictions on Signage:* Any sign on such a business, including both those that have on-premises entertainment and those that do not, shall be oriented so that it is not legible from any lot occupied by a single family residence, a school, or a house of worship. If it is impracticable to reorient the sign to preclude its legibility from such locations, the affected sexually oriented business may either install a landscaped or other screening device to accomplish the same purpose or remove the sign.~~

**SECTION 3.** Any provisions of the Code of Ordinances of the City of Marathon, Florida or Ordinances or parts of Ordinances that are 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, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, or 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 that 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 “Ordinance” shall be changed to “Section” or other appropriate word.

**SECTION 6.** This Ordinance shall become effective immediately upon approval.

**ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA,  
THIS 11TH DAY OF JULY 2023.**

**THE CITY OF MARATHON, FLORIDA**

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**Luis Gonzalez, Mayor**

AYES:

NOES:

ABSENT:

ABSTAIN:

**ATTEST:**

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Diane Clavier, City Clerk

(City Seal)

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

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Steven Williams, City Attorney