



**City of Marathon Planning Commission**  
**Monday November 18, 2024**  
**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 items on the agenda may be quasi-judicial in nature. If you wish to give testimony on any item, please inform the Board's 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. **PULLED.** Consideration Of A Request For A Conditional Use Permit For Captain Pips Holdings, LLC Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (Code) Entitled "Conditional Use Permits" For The Development Of A Property Into Multifamily Housing, Office And Restaurant, And Marina; Located At 1480 Overseas; Which Is Which Is Legally Described As Part Of Government Lot 2 And Bay Bottom North Of And Adjacent To Lot 2 And Adjacent Portion Of State Road 4-A And 1458 Coral Drive Legally Described As Back 3 Part Of Lots 1- 2 -3 And Back 2 Parts Of Lots 1-2-3-4 W R Thompson Subdivision PB 2-104 (Aka Parcels B-C-D-E-F-K-L Per UNREC 1977 C G Bailey Survey On File), Section 9, Township 66 South, Range 32, Key Vaccas, Monroe County, Florida; Having Real Estate Numbers 00102790-000000 & 00320330-000000. Nearest Mile Marker 48.
2. Consideration Of A Request By The City Of Marathon For A Variance Pursuant To Chapter 102 Article 20 And Chapter 107 Article 12 Section 107.102.3 Entitled Variances And Appeals, Requesting A Variance From The Provisions Of Dry Floodproofing; Seeking A Variance To Wet Floodproof The Quay Restrooms; Located At 12650 Overseas Highway;

Which Is Legally Described As Part Of Lot 1 And Adjacent Part Of The Road ROW, Section 5 Township 66 Range 33, Fat Deer Key, Monroe County, Florida, Having Real Estate Number 00100330-000000.

3. **PULLED.** Consideration Of A Request By Grassy Key Resort Group LLC For A Conditional Use Permit, Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (“The Code”) Entitled “Conditional Use Permits”, Authorizing The Conversion Of Four (4) Transient Hotel Units Into Four (4) Transient RV Sites On The Property Located At 57622 Overseas Highway, Which Is Legally Described As Crains Subdivision Of Grassy Key PB1-51 South Side Flagler To Ocean Part Between Blocks 53 & 58, Having Real Estate Number 00373875-000200 Nearest Mile Marker 58.



**City of Marathon Planning Commission  
Monday September 16, 2024  
9805 Overseas Hwy  
City Hall Council Chambers**

**MINUTES**

Royse called the meeting of the Planning Commission to order on Monday September 16, 2024, at 5:30 pm.

In attendance: Planning Director Brian Shea, Attorney Steve Williams, 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.

Royse called for an approval of the Minutes from the last meeting. Senmartin moved to approve. Royse seconded. The motion was approved 4-0, as Cinque was absent last meeting.

The quasi-judicial statement was read into the record.

**Item 1** was read into the record: Consideration Of A Request By Huff and Rauner Gulfside Estates LLC For A Conditional Use Permit, Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (“The Code”) Entitled “Conditional Use Permits”, Authorizing The Development Of A Tiki Bar, Food Trucks, Entertainment Stage, Nature Walk And Twenty (20) Single Family Residential Units Consisting Of Twenty (20) Parcels Located At 6200 Overseas Hwy; Which Is Legally Described As Lots 3 Through 6 And The West Half Of Lot 7 Of Casa Manana Shores Subdivision As Recorded In Plat Book 2 Page 50, A Subdivision Of Part Of Government Lot 1 Section 11 & Vacas, Vacas Out Lot 1 & Filled Area; Section 11 Township 66 Range 32 Key Vaccas Part Lot 1 & Part Old State Road 4 A, Marathon Heights As Recorded In Plat Book 2 Page 83 Key Vaca Part Lot 1 (Old State Road 4-A) And Vacant Land 61st Street; Block 2 Lots 1 Through 12 Of Marathon Heights Subdivision As Recorded In Plat Book 2 Page 83, A Re-Subdivision Of Lots 1 & 2 Of Casa Manana Shores As Recorded In Plat Book 2 Page 50; Monroe County, Florida, Having Real Estate Numbers 00336210-000000, 00336200-000000, 00336190-000000, 00336180-000000, 00336170-000000, 00336160-000000, 00103590-000000, 00338560-000200, 00338560-000000, 00338570-000000, 00338580-000000, 00338590-000000, 00338600-000000, 00338610-000000, 00338620-000000, 00338630-000000, 00338640-000000, 00338650-000000, 00338660-000000, And 00338670-000000 Nearest Mile Marker 50.

Royse asked for exparte communications. Sexton had spoken to several people but said it would not affect his decision. Royse said the applicant purchased her house on 61<sup>st</sup> Street but it would not affect her decision.

Erin Dafoe presented the item with the use of visual aids.

Bo Rosenblat, applicant, presented the item on his behalf.

A discussion ensued regarding the conservation easement, flood proofing of the tiki, fire sprinkling requirements for the tiki, stage area noise, grease traps for food trucks, dump station, mitigation of vegetation, EDUs, HOA, widening 61<sup>st</sup> Street, and the possibility of making the driveway internal instead of down the side street.

The meeting was opened to public speakers:

1. Andrew Leird-voiced concerns regarding the entrance on 61<sup>st</sup> Street. Requests that the only entrance be on US1.
2. Tonya Leird-voiced concerns about traffic.
3. Allison Clark-voiced concerns about mangroves and docks.
4. Patricia McGrath-concerned that every single application needs a conditional use permit.

Senmartin moved to approve the item with the following conditions:

1. Look at opportunities for widening the road.
2. Have a grease trap on site.
3. No electric music

Royse seconded. The roll was called. The item was approved 4-1, Sexton dissenting.

**Item 2** was read into the record: Consideration Of A Request By LPS Utilities Inc. For A Conditional Use Permit, Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations ("The Code") Entitled "Conditional Use Permits", Authorizing The Development Of Four (4) Residential Units Located At 59740 Overseas Hwy; Section 20 Township 65 Range 34 Grassy Key Part Lot 5, Monroe County, Florida, Having Real Estate Number 00100130-000000. Nearest Mile Marker 60.

Brian Shea presented the item.

Patrick Stevens presented the item for the applicant.

The meeting was opened to the public.

1. Patricia McGrath voiced concerns regarding traffic and noise.

After a brief discussion on buffering and an operating agreement Senmartin moved to approve the item. George seconded. The item was approved 5-0.

**Item 3** was read into the record: Consideration Of A Request For A Conditional Use Permit And Preliminary Plat Approval Pursuant To Chapter 102 Article 10 And Article 13 Of The City Of Marathon Land Development Regulation (LDRS) Entitled "Subdivision Of Land/Plats And Re-Plats," And "Conditional Use Permits" Respectively, For A Preliminary Plat Approval As Submitted By Key Vaca LLC And John And Phyliss Strittar For A Portion Of Land Which Is Described As Section 10, Township 66, Range 32, Key Vacas Bay Bottom & Fill Bay Bottom Adjacent To Part Of Lot 2 & All Of Lot 3 Of Thomoson Subdivision (A/K/A Parcel E & Bay Bottom Parcel B), And Thompson Subdivision & Adams Subdivision PB2-24, Key Vaca Part Of Lot 2 & Adjacent Bay Bottom And Thompson Subdivision & Adams PB2-24 Key Vaca Part Lots 2 & 3 (Parcel B & F) & Filled Bay Bottom & Canal



Bay Bottom And Thompson Subdivision & Adams Subdivision PB2-24, Key Vaca Part Of Lot 3, Having Real Estate Numbers 00103280-000000, 00327120-001000, 00327130-000200, And 00327130-001000. Nearest Mile Marker 50.

Amber Stonik presented the item with the use of visual aids.

Brian Schmitt presented the item on behalf of himself and stated that the project is under dense, and 8 of the units coming to this property are the direct result of his creation of affordable units elsewhere.

After a brief discussion on easements and private roads, Senmartin moved to approve the item. Cinque seconded. The roll was called. The item was approved 5-0.

**Item 4** was read into the record: Consideration Of A Request By Coco Plum LLC For A Conditional Use Permit, Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (“The Code”) Entitled “Conditional Use Permits”, Authorizing The Development Of A Boat Storage Facility Located At 2 Coco Plum Dr; Which Is Legally Described As Block 1 Lot 2 Coco Plum Beach PB4-166 Fat Deer Key, Monroe County, Florida, Having Real Estate Number 00362810-000000. Nearest Mile Marker 54.

Erin Dafoe presented the item with the use of visual aids.

Brian Schmitt spoke on behalf of the applicant.

Senmartin stated that any mechanical work or bottom painting would require additional approvals and he moved to approve the item. Royse seconded. The roll was called. The item was approved 5-0.

**Item 5** was read into the record: Consideration Of A Request By Gunnar Holdings LLC For A Conditional Use Permit, Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (“The Code”) Entitled “Conditional Use Permits”, Authorizing The Development Of A Commercial Warehouse with Eight (8) Rental Bays Including Elevated Loft Office Space And Bathroom Located at 420 69th Street Ocean; Block 2 Lots 1 & 2 First Addition To Seacrest Key Vaca, Monroe County, Florida, Having Real Estate Number 00339230-000000. Nearest Mile Marker 51.

Erin Dafoe presented the item with the use of visual aids.

Senmartin had exparte communications with the owner of the property, asked if the owner would add more landscaping to cover the metal building.

After a brief discussion on hours of operation, metal buildings and façades Senmartin moved to approve the item as presented. Cinque seconded. The roll was called. The item was approved 5-0.

**Item 6** was read into the record: An Ordinance Amending the City’s Land Development Regulations Relating to Chapter 107, Article 5, “Setbacks and Height”, Section 107.36 “Exception To Setback”; 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 Florida Commerce After Final

Adoption By The City Council; Providing For Inclusion In The Code Of Ordinances And Providing For An Effective Date.

Brian Shea presented the item. George moved to approve. Royse seconded. The roll was called. The item was approved 5-0.

**Item 7** was pulled.

**Item 8** was read into the record: An Ordinance Of The City Of Marathon, Florida, Amending The City's Comprehensive Plan, Amending Objective 1-4.1 "Provide Workforce-Affordable Housing Building Permit Allocations"; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To Florida Commerce; And Providing For An Effective Date Upon The Approval Of This Ordinance By Florida Commerce.

-AND-

**Item 9** was read into the record: An Ordinance By The City Of Marathon, Florida, Amending Chapter 107, Article 1 "Building Permit Allocation System" By Amending Section 107.04 "Establishment Of Allocation Pools" To Remove The Cumulative Limit; 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 Florida Commerce After Final Adoption By The City Council; Providing For Inclusion In The Code Of Ordinances And Providing For An Effective Date.

Brian Shea presented the item with the use of visual aids.

These items would give the city the ability to accept more allocations should they become available.

After a brief discussion, Senmartin moved to approve Item 8. Royse seconded. The roll was called. The motion failed 2-3. Cinque, George, and Sexton dissenting.

Senmartin moved to approve Item 9. Royse seconded. The roll was called. The motion passed 3-2. Cinque and George dissenting.

Motion and second to adjourn at 7:10pm.

ATTEST:

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MaryAnn Royse-Planning Commissioner Chair

ATTEST:

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Lorie Mullins-Admin Assistant  
Planning Department

**Audio-Video is available upon request.**

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

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

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

DRAFT

## PLANNING COMMISSION AGENDA STATEMENT



**Meeting Date:** November 18, 2024

**To:** Planning Commissioners

**From:** Amber Stonik, Senior Planner

**Agenda Item:** Consideration Of A Request For A Conditional Use Permit For Wharf Marina, Inc. Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (Code) Entitled "Conditional Use Permits" For The Development Of A Property Into Multifamily Housing, Office And Restaurant, And Marina; Located At 1480 Overseas; Which is As Part Of Government Lot 2 And Bay Bottom North Of And Adjacent To Lot 2 And Adjacent Portion Of State Road 4-A and 1458 Coral Drive Legally Described as Back 3 Part of Lots 1- 2 -3 and Back 2 Parts of Lots 1-2-3-4 W R Thompson Subdivision PB 2-104 (Aka Parcels B-C-D-E-F-K-L per UNREC 1977 C G Bailey Survey on file), Section 9, Township 66 South, Range 32, Key Vaccas, Monroe County, Florida; Having Real Estate Numbers 00102790-000000, & 00320330-000000. Nearest Mile Marker 48.

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**APPLICANT/ OWNER:** Wharf Marina, Inc.

**AGENT:** L. Steven Hurley, HLPC

**LOCATION:** The project site consists of 2 parcels. The parcels are located at 1480 Overseas Highway nearest mile marker 48. See Figure 1 & 2.

**Figure 1: Project Location**

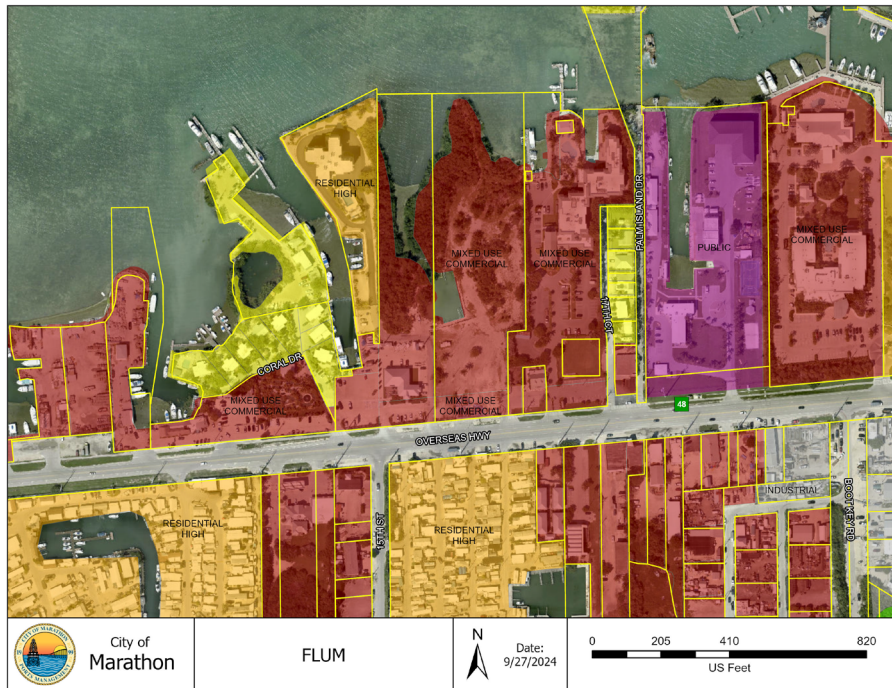




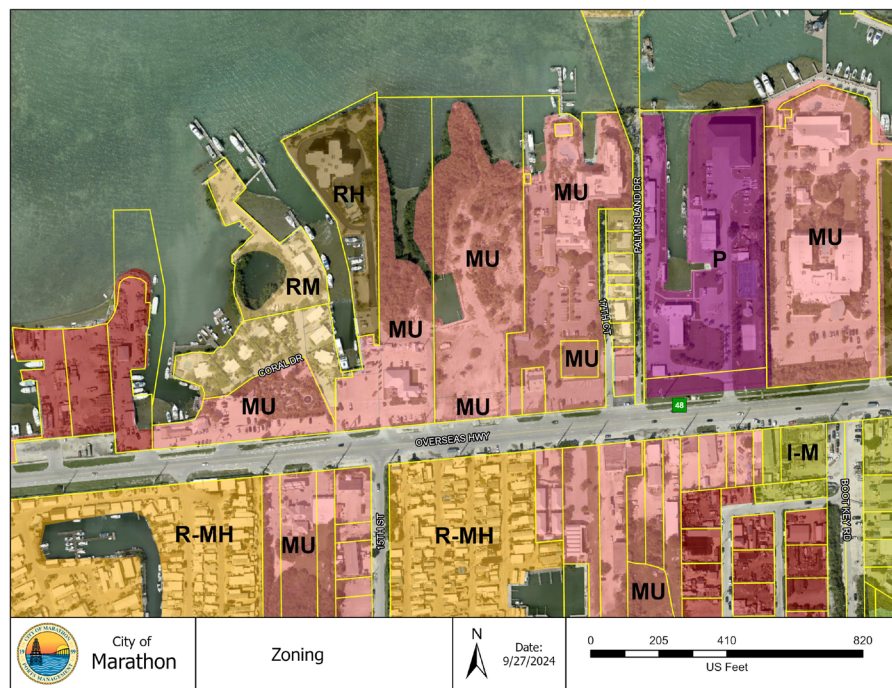
**REQUEST:** An amendment to a Conditional Use for the redevelopment of the subject property having the real estate numbers 00102790-000000 & 00320330-000000.

**FUTURE LAND USE AND ZONING MAP DESIGNATIONS:** See Figure 2 &3.

**Figure 3: Future Land Use Map**



**Figure 4: Zoning Map**



**LOT SIZE:**

RE: 00102790-000000, 1480 Overseas Hwy.

Approximately 1.26 acres upland, 1.86 acres environmentally sensitive lands, and 1.00-acre easement.

RE: 00320330-000000, 1458 Coral Dr. 63,336 sq ft and 0.09-acre easement.

**SURROUNDING ZONING AND USES:**

	<u><b>Zoning</b></u>	<u><b>Use</b></u>
<b>North</b>	Residential Medium and Residential High	Harbor Cay Club
<b>East</b>	Mixed Use	vacant
<b>South</b>	Mixed Use and Residential Mobile Home	Trailerama, Dion's
<b>West</b>	Residential Medium and Mixed Use	Porky's, Wharf Marina

**EXISTING CONDITIONS:**

The project site consisted of three parcels. A residential four-plex, and the commercial parcel previously was developed with Hanley's Restaurant and Marina. It has been redeveloped into a commercial structure. Housing units have yet to be constructed.

**PROPOSED REDEVELOPMENT:**

Market Rate Units: Originally 6 Units to be reduced to 5 units.  
Affordable Units: 1 Units no longer to be constructed.  
Commercial: 3,640 square feet and accessory structures. Already completed.

**BACKGROUND:**

The project was a redevelopment of the property to include the construction of new residential uses and commercial and marina uses in the Mixed-Use zoning classification. This report addresses the proposed amendment to the current conditional use.

On June 18, 2019, the City Council passed Resolution 2019-61 approving the original conditional use application.

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

**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 Mixed Use (MU) Zoning District. Per Chapter 103, Article 2, Section 103.09 of the Land Development Regulations, "The MU zoning district is designed to accommodate a wide variety of commercial and retail activities that will result in the most efficient and attractive use of the City's historic business district and the US 1 corridor, in an effort to recognize the role of US1 as the City of Marathon's "Main Street". Specifically, this district provides for land uses that have a strong pedestrian-oriented character, with a mixture and concentration of specialty shopping, transient lodging, retail, personal service, restaurant, cultural, fishing industry, affordable housing, and entertainment uses in the Old Town area. The MU district also provides for large-scale retail and commercial business opportunities in other areas, including larger shopping centers, specialty shopping centers, individual multi-tenant commercial buildings, automobile services and sales, fast food restaurants, affordable housing residential uses, transient lodging and other retail establishments that serve the community at large. The (MU) district is designated within the Mixed-use Commercial (MUC) future land use category on the Future Land Use Map (FLUM)."

The proposed project consists of the development of new residential uses and is consistent with the Mixed-Use Zoning 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 multifamily residential uses are allowed as Conditional Uses in the MU district. Marinas are also a Conditional Use in MU zoning. 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.

The development was originally approved with seven (7) residential units. The original Conditional Use approved for 1480 Overseas Highway property was for approximately 75,537 square feet for RE #00320350-000000, #00102790-000000, and #00102860-000000.

The amended conditional use proposes five (5) residential units. Allowed density is 2-6 Units per acre for Market Rate units. The Mixed-Use Commercial building has already been constructed as the Captain Pips & Starbucks. The Five (5) Multifamily units over parking have yet to be constructed. The required minimum lot area per multifamily unit is 7,260 sq ft with a minimum open space requirement of 20%. The total Site area is 1.73 Acres requiring a minimum of 15,107 sq ft of open space. The site plan provides approximately 20,188 sq ft of open space or 26.7%. The proposed amendment provided a reduced density.

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

### **B. The proposed use is compatible with the existing land use pattern and future uses**

**designated by the Comprehensive Plan;**

The proposed project is located within the Mixed-Use Commercial Future Land Use District. Policy 1-3.1.4 of the City of Marathon Comprehensive Plan states that the “principal purpose of the Mixed-Use Commercial future land use category is to provide for the establishment of mixed-use development patterns and to recognize established mixed use development patterns within the City. This land use category is intended to provide for the commercial zoning districts where various types of commercial, retail, and office uses may be permitted at intensities which are consistent with the community character and the natural environment and to provide for various types of residential uses, including employee housing and commercial apartments. Whenever and wherever possible, the maintenance and enhancement of commercial fishing and related traditional uses such as retail, storage, and repair and maintenance which support the commercial fishing industry shall be encouraged within this land use category. Heavy industrial uses and similarly incompatible uses shall be prohibited. Lawfully established RV parks where the majority of the RVs spaces are maintained and rented as transient spaces are also allowed within the Mixed-Use Commercial future land use category.” The proposed project includes development of similar uses which is consistent with the Mixed-Use classification.

The existing land use pattern in the project vicinity consists of the restaurants commercial and residential to the east, a mobile home park and gas station to the south, commercial and residential uses to the north, and a restaurant and marina and residential uses to the west.

Otherwise, the redevelopment of the site will result in significant improvement to the site development quality, including upgraded landscaping, stormwater management, and architecture. The improvements are expected to have a positive benefit on the surrounding uses and the City.

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

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

The proposed use is the creation of residential use which has not had any known impact to the health, safety, and welfare of the public. Additionally, the creation of the office and restaurant space are not expected to create any adverse impacts to the health, safety, and welfare of the public.

The marina will also be required to meet the following criteria as additional protections for health, safety, and welfare:

- Will not have a detrimental effect on the use of such waters for navigation, transportation, recreational or other public purposes and public conveniences;
- Will not restrict the free use of the waterways and navigable waters;
- Will not have a material adverse effect upon the flow of water or tidal currents in the surrounding waters;
- Will not have a material adverse effect upon erosion, erosion control, extraordinary storm drainage, shoaling of channels, or would be likely to adversely affect the water quality presently existing in the area or limit progress that is being made toward improvement of water quality in the area;
- Will not have a material adverse effect upon the natural beauty and recreational advantages of the City;
- Will not have a material adverse effect upon the conservation of wildlife, marine life, and





The existing conditions maps indicate the subject area is designated as developed, although there are portions that are undeveloped along the mangrove fringes. A site inspection showed the current conditions as scarified with a building near the water. A portion of the property is recognized as possible habitat for a state or federally listed animal species, the eastern indigo snake. Figure 6 shows that this portion falls under the category of mangroves. The portion along the front, identified as undeveloped land would fall out of impact under the Species Assessment Guides. Should any development necessitate the removal of existing native vegetation within these areas an impact determination will be made using the Species Assessment Guides.

**Figure 5: Species Focus Area Habitat**



Further improvements to water quality are expected to arise from stormwater improvements to the site, which should provide up-to-date treatment and eliminate any existing discharges to surface waters. The applicant has submitted preliminary stormwater plans suitable for the Conditional Use Application, and final plans are required prior to building permit issuance.

Site landscaping will be selected from Table 107.68.1, Appendix A, Article 8, Section 107 of the City of Marathon Code of Ordinances. The native vegetation will improve the environmental quality of the site and reduce irrigation needs.



Pursuant to Article Two of Chapter 106 any native trees within footprints will have to be mitigated. These transplanted and mitigated trees will be monitored per Section 106.10.

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

- Staff requires that upon planning review, if the redevelopment is found to have any effect on the Eastern Indigo Snake Habitat, then the prescribed protection measures must be undertaken, and the information poster posted on site.
- A final Landscape/mitigation plan must be submitted prior to permit issuance.

**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;**

The applicant has provided a breakdown of the proposed occupancy of the onsite buildings. The “Trip Generation Analysis” schedule provided by the traffic engineer shows that the residential use will create 47 net new daily trips. The submitted study finds that the proposed use will not have an adverse impact on the operating characteristics of U.S. 1, nor will it inhibit the safe flow of traffic traveling through the City of Marathon.

Table 1 below summarizes the trip generation characteristics associated with the approved and proposed residential development at Captain Pip’s in Marathon, Monroe County, Florida.

<b>Table 1</b> <b>Captain Pip's - Residential</b> <b>Trip Generation Summary</b> <b>Marathon, Florida</b>								
Land Use	Size	Daily Trips	AM Peak Hour Trips			PM Peak Hour Trips		
			In	Out	Total	In	Out	Total
<b>Approved</b> Multifamily Housing (Low-Rise)	7 DU	42	1	2	3	3	1	4
<b>Proposed</b> Single-Family Detached Housing	5 DU	47	1	3	4	3	2	5
<b>Difference (Proposed - Approved)</b>		<b>5</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>1</b>

Compiled by: KBP Consulting, Inc. (August 2024).

Source: Institute of Transportation Engineers (ITE) Trip Generation Manual (11th Edition).

The trip generation analysis for the approved and proposed residential development at Captain Pip’s in Marathon, Florida indicates that the proposed actions will result in a minor increase in daily (+5 trips) and peak hour trips (+1 AM peak hour trip and +1 PM peak hour trip).

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;**

Parking requirements are outlined in Section 107.46 (Parking Schedule). For five residences, two parking spaces are required for each unit. One space is required for every 10 bedrooms. The twelve berths require 6 parking spaces. Five spaces were required for the office. The coffee shop required one space for every three seats, and one space for every two employees on the largest shift. This requirement was met. Residential parking is being provided on site. A total of 47 parking spots are required. The site plan provided a total of 50 parking spots.

Section 107.52 includes a requirement that one handicapped space be provided for every 25 spaces required. Three ADA spaces are required and are provided. Parking space sizes are 9' x 18' for 90-degree parking.

This property is located adjacent to the Florida Keys Overseas Heritage Trail. As such, bicycle parking is required at a rate of one space for every ten parking spaces. The final site plan must show the bicycle racks on site prior to permit issuance.

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

- The final site plan must show the required parking spaces with prior to permit issuance.
- The final site plan must show the bicycle racks on site prior to permit issuance.

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

The proposed project consists of redevelopment of an existing abandoned commercial use. The proposed residential and commercial uses do not have any adverse effect through noise, glare, or odors; and the proposed use reduces these effects, therefore the proposed uses should have a de minimis impact.

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

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

Section 107.39 requires that all dumpsters and recycling bins be fully enclosed and screened. The final site plan must show the dumpster located on a pad and will have to be screened.

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

- The final site plan must show that the dumpsters are screened.

**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 will provide wastewater and sewage collection and disposal via proposed sanitary clean outs; the property is currently connected to the City sewer system. This project will constitute an expansion, resulting in a de minimis impact. The applicant must provide utility easements for the proposed alterations.
- Water: The Florida Keys Aqueduct Authority will provide potable water for the facility.
- 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. This will provide full topographic survey up 25 feet off-site and centerline of adjacent road.
- Recreation and Open Space: This redevelopment will have a de minimis impact on recreation and open space.
- Roadways: The applicant is redeveloping the site with a higher intensity than was contained within the prior development; therefore, a traffic study was completed to analyze the impact on transportation facilities.
- Educational Facilities: This redevelopment will have a de minimis impact on educational facilities.

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

- City approval is required for the stormwater management system prior to Building Permit Approval. This will provide full topographic survey up 25 feet off-site and centerline of adjacent road.
- City approval of the connection to the City Wastewater Utility will be required.
- A utility easement must be recorded for access and maintenance.
- The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.

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

Table 107.66.1 establishes project boundary buffer standards applicable to the project. The subject parcel is zoned MU and is bordered to the Northeast by property zoned RH, and to the Northwest by property zoned RM. There is a medium project boundary buffer requirement for portions of the project area adjacent to parcels zoned RH. As the access drive for the residential is adjacent to the RM, additional buffering is not recommended as it would hinder clear site. \*Both sites are owned by the applicant, so the buffer reduction does not negatively impact adjacent uses. The City Biologist must approve the final landscape plans.

Buffer Type	Minimum Width	Canopy Tree	Understory Tree	Non-Deciduous	Shrub	Screening
Medium	15 feet	4	2	2	16	No

Section 107.71 C. requires that all multifamily residential developments provide one of two types of buffers along the entire street frontage. The project is along US1 in Old Town and thus

requires a type II buffer.

Table 103.15.2 outlines setback requirements in the MU district as follows: front yard 0-30'; interior side yards 10'; and rear setbacks have a 20' setback from the property line.

Table 106.28.1 outlines that the setback of principal structures on a canal are 20' as measured from MHWL or mangrove fringe whichever is further landward.

This plan shows an 87' setback on the front yard, 62' setback side yard setback nearest the RH parcel, 0' setback for the RM parcel and 15' rear yard setback.

Setback	Required	Required Landscape	Proposed	Compliant
Front	0-30	10	87	Yes
Rear RH	10	15	62	Yes
Rear RM	10	20*	0	Yes**
Rear	20	NA	15	Yes**

The last two rear setbacks in the table, while not standard may be reviewed as compliant based upon the nonconforming setback sections. \*\* When a structure is nonconforming because it encroaches into a required setback, this provision will be interpreted as allowing other portions of the structure to be expanded as long as there is no further encroachment into a required setback. Additionally, provided that there will be no adverse impacts on surface water runoff or navigation, the setback from the water may be maintained.

Parking area landscaping is required by Section 107.66 of the Code. Proposed parking area landscaping meets the standards set forth in the code.

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

- A Final Landscape Plan must be submitted showing the proper treatments and buffers, including the appropriate treatment types and trees.
- A Final Site Plan must be submitted showing the buildings meeting the required setbacks, parking locations, and access drives.

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

A review of sign requirements at this stage in development approval is not necessary; however, signs for the project will be reviewed prior to issuance of a building permit according to Chapter 107, Article 7, Signs.

Article 107.54 establishes criteria for lighting, including light pole light limitations and other technical criteria. Final lighting plans will be submitted along with final landscaping plans and will include verification from the landscape architect that all provisions of the article are met.

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

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

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

Section 106.16 established required open space for the project. The site is scarified; therefore, a twenty percent open space requirement applies.

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

**9. General compatibility with surrounding properties; and**

The project is a redevelopment of property that has needed improvement and maintenance. Adjacent uses include a commercial establishment and other residential dwelling units. A redevelopment of the property into a mix of residential units and commercial with marina is expected to be fully compatible with these uses. The proposed project represents improvement to the current state of prior development and is expected to increase compatibility with surrounding properties.

Section 107.40 restricts the height of buildings to 42' as measured from the crown of the roadway or unimproved grade. The site plans show that buildings are below 42'.

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

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

Section 104.48 Residential Dwelling Units contains special requirements.

The following criteria are applicable to this redevelopment:

- Two (2) side yards are required for stacked duplexes.
- Townhouses are limited to ten (10) dwelling units per row, except for affordable housing.
- The private yard area for rooftop balcony dwelling is provided by the roof or balconies of the structure.
- The total area of the mixed-use or commercial apartments, including patios and access way shall not exceed the area covered by the ground floor and any covered walks or arcades.
- Each unit shall have access to a balcony or patio that is separate from the access to the unit, provides adequate privacy and the size shall be two-tenths (2/10) of unit floor area or a minimum of 60 square feet in size.
- The patio area may be wholly or partially replaced by the provision of a recreation yard provided on site. Recreational yards shall be a minimum one-tenth (1/10) of unit floor area.

Section 104.42 Outdoor Storage contains special requirements.

- Outdoor storage shall be incidental and subordinate to the primary use located on the property.
- Storage areas shall be located to the side or rear of the principal building and completely screened from view.

Section 104.30 Marina contains special requirements.

The following criteria are applicable to this redevelopment:

- Prior to the issuance of any permit under this article, special conditions may be imposed for such permit. These conditions should include any item which can be reasonably expected to enhance the probability that the proposed activity will be conducted in compliance with the intent of this article. Those conditions may include, but are not limited to, field inspections by City staff, reports, monitoring, bonding, easements, guaranteed survival of non-affected and/or replanted vegetation, protective barriers, setbacks, protective earthwork, replants, signage, restoration, and/or mitigation. Conditions may also be applied in order to assure consistency with the Comprehensive Plan.
- Prior to the issuance of the Certificate of Occupancy, the marina shall obtain and maintain a Marina Operating Permit, in compliance with all standards of Article 24, Chapter 102.
- It shall be unlawful for any person to deviate from the specific conditions of the permit as set forth by this article without the prior approval of the City Manager.

The proposed development meets all applicable criteria set forth in this section.

Therefore, with the conditions noted above, 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 redevelopment consists of the replacement and enhancement of neglected property, as well as the development of new residential units and commercial uses on site. As such the development, including the overall upgrading and improvement of the sites, furthers the policies for development in the City and is consistent with the Comprehensive Plan and Land Development Regulations. The project is compatible with surrounding uses at both project sites, and is not expected to create a nuisance, traffic congestion or threat to public, health, safety, or welfare.

## **RECOMMENDATION:**



Staff recommends approval of the amended conditional use with conditions of approval listed below.

#### Conditions of Approval

1. A Final Site Plan must be submitted showing the existing (to be retained) and proposed buildings meeting the required setbacks, the specific setbacks for the old building footprint, parking locations, and access drives and all civil engineering features; and
2. City approval of the connection to the City Wastewater Utility is required, including:
  - a. engineering drawings as needed,
  - b. projected wastewater flows, and
  - c. any easements, connections, and projected flows for Casa Cayo.
3. City approval is required for the stormwater management system prior to Building Permit Approval.
4. The applicant will provide fire protection plans in accordance with fire protection requirements as outlined by the City Fire Marshal (attached as Exhibit A)
5. A Final Landscape Plan must be submitted showing the proper treatments and buffers, including the appropriate treatment types and trees.
6. The final site plan must show that the dumpsters are screened.
7. All signs shall be reviewed and approved for compliance with the City of Marathon LDR's.
8. If the redevelopment is found to have any effect on the Eastern Indigo Snake Habitat, then the prescribed protection measures must be undertaken, and the information poster posted on site.
9. All mangroves associated with the northern portion of the parcel, north of the access easement to Casa Cayo, shall remain intact and may not be removed per the City's protection provisions for Mangrove Habitats. A conservation easement is required.
10. For the residential units
  - a. Two (2) side yards are required for stacked duplexes.
  - b. Townhouses are limited to ten (10) dwelling units per row.
  - c. The private yard area for rooftop balcony dwelling is provided by the roof or balconies of the structure.
  - d. The total area of the mixed-use or commercial apartments, including patios and access way shall not exceed the area covered by the ground floor and any covered walks or arcades.
  - e. Each unit shall have access to a balcony or patio that is separate from the access to the unit, provides adequate privacy and the size shall be two-tenths (2/10) of unit floor area or a minimum of 60 square feet in size.
  - f. The patio area may be wholly or partially replaced by the provision of a recreation yard provided on site. Recreational yards shall be a minimum one-tenth (1/10) of unit floor area.
11. Outdoor storage shall be incidental and subordinate to the primary use located on the property.
12. Storage areas shall be located to the side or rear of the principal building and completely screened from view.
13. Prior to the issuance of any permit under this article, special conditions may be imposed for such permit. These conditions should include any item which can be reasonably expected to enhance the probability that the proposed activity will be conducted in compliance with the

intent of this article. Those conditions may include, but are not limited to, field inspections by City staff, reports, monitoring, bonding, easements, guaranteed survival of non-affected and/or replanted vegetation, protective barriers, setbacks, protective earthwork, replants, signage, restoration, and/or mitigation. Conditions may also be applied in order to assure consistency with the Comprehensive Plan.

14. It shall be unlawful for any person to deviate from the specific conditions of the permit as set forth by this article without the prior approval of the Planning Director or City Council as appropriate.
15. The Conditional Use Development Order will constitute the Certificate of Concurrence for the project. The determination will be valid for one year.
16. The Applicant must obtain or transfer five (5) housing units, to be transferred via the Transfer of Building Rights (TBR's), BPAS process, or any other legally established process prior to building permit issuance. THE APPROVAL OF THE REQUESTED CONDITIONAL USE PERMIT AMENDMENTS DO NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF ANY MARKET RATE RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT.
17. Property lines must be reconfigured so that all duplex buildings and associated parking are within the same parcel.

## Attachments A: Proposed Redevelopment Site Plan

**SITE DATA INFORMATION :**

**SIZE AREA:**  
THE TOTAL SQUARE FOOTAGE OF THE 1480 OVERSEAS  
HIGHWAY PROPERTY IS APPROXIMATELY  
75,537 SQUARE FEET.

RE #00320350-000000  
#00102790-000000  
#00102860-000000

**FUTURE LAND USE: MIXED USE COMMERCIAL  
RESIDENTIAL MEDIUM**

**ZONING DISTRICT: MU MIXED USE**

**PROPOSED USE: MULTI FAMILY, OFFICE & RESTAURANT  
DENSITY: 2-6 UNITS PER ACRE - MARKET RATE**

**BUILDING TYPE #1:**  
EXISTING CAPTAIN PIPS & STARBUCKS

**BUILDING TYPE #2:**  
FIVE UNITS, ONE STORY MULTIFAMILY OVER PARKING

**PROPOSED LAND USE:**  
(S) MULTIFAMILY UNITS  
EXISTING (1) COMMERCIAL  
MIN. LOT AREA PER MULTIFAMILY = 7,260 SF  
MIN. OPEN SPACE = 20%  
TOTAL SITE = 1.73 ACRES

**OPEN SPACE:**  
75,537 SF X .2 = 15,107 SF REQUIRED  
20,188 SF +/- APPROXIMATE OPEN SPACE 26.7%

**SETBACKS, MIN. REQUIRED:**  
FRONT AT OVERSEAS HWY 30'-0"  
CANAL WATER SIDE 20'-0"  
SIDES 10'-0"

**PARKING**  
**REQUIRED**  
COMMERCIAL: 1 SPACE PER 500 SF  
26 EXISTING PARKING SPACE +  
(3) EXISTING ADA SPACES

**RESIDENTIAL: 2 SPACES PER 2 BEDROOM UNIT  
UNITS 1-3, TWO SPACE BELOW UNITS # 33-38  
UNITS 4-5, PARKING SPACES # 23-26**

**TOTAL REQUIRED = 47  
TOTAL PROVIDED = 50**

**U.S. HIGHWAY NO 1  
(AKA OVERSEAS HWY)  
100' R/W**

**ARCHITECTURAL SITE PLAN  
SCALE: 1/8" = 1'-0"**

**TIMOTHY SETH NEAL FLA. REGISTRATION # AR97505**

**T.S. NEAL ARCHITECTS, INC.**  
22874 OVERSEAS HWY  
CLUDGE KEY, FL 33042  
305-340-8857  
251-422-9547

**CAPTAIN PIPS  
1480 OVERSEAS HIGHWAY  
MARATHON, FL 33050**

**DRAWING TITLE:  
ARCHITECTURAL SITE PLAN**

**DRAWN: TSN  
CHECKED: -  
DATE: 08-15-2024**

**REVISION # DATE**

**C1.1  
SHEET #**

**T.S. NEAL ARCHITECTS, INC.**

Sponsored by: Lindsey

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2019-61**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING A REQUEST FOR A CONDITIONAL USE PERMIT FOR CAPTAIN PIPS HOLDINGS, LLC PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (CODE) ENTITLED “CONDITIONAL USE PERMITS” FOR THE DEVELOPMENT OF A PROPERTY INTO MULTIFAMILY HOUSING, OFFICE AND RESTAURANT, AND MARINA; LOCATED AT 1470 OVERSEAS; WHICH IS LEGALLY DESCRIBED AS PART OF GOVERNMENT LOT 2 AND BAY BOTTOM NORTH OF AND ADJACENT TO LOT 2 AND ADJACENT PORTION OF STATE ROAD 4-A, PART OF GOVERNMENT LOT 2 IN REAR OF HANLEY’S INC, AND BLOCK 3 PART OF LOT 3 AND GOVERNMENT LOT 2 W R THOMPSON SUBDIVISION, SECTION 9, TOWNSHIP 66 SOUTH, RANGE 32, KEY VACCAS, MONROE COUNTY, FLORIDA; HAVING REAL ESTATE NUMBERS 00320350-000000, 00102790-000000, & 00102760-003000, NEAREST MILE MARKER 48.**

**WHEREAS**, Captain Pips Holdings, LLC (The “Applicant”) filed an Application on February 4<sup>th</sup>, 2019 for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the City of Marathon Land Development Regulations (LDRs); and

**WHEREAS**, said Captain Pips Holdings, LLC property located at 1470 Overseas Highway (RE Nos. 00320350-000000, 00102790-000000, & 00102760-003000) consists of one residential four-plex and an old commercial structure, used most recently as a restaurant; and

**WHEREAS**, the Applicant has proposed the redevelopment of three (3) existing properties, such that an existing residential four-plex will remain and will build (six (6) market rate residential units and one (1) affordable residential unit in one multi-plex and, in addition, construct 3,200 square feet of commercial and accessory commercial structures; and

**WHEREAS**, the City staff reviewed the Applicant’s request for a Conditional Use Permit determining that the Applicant’s project proposal is in compliance with the City’s Comprehensive Plan and Land Development Regulations (LDRs) and further that there was no substantial impact on the City’s Level of Service (LOS); and

**WHEREAS**, on the 20<sup>th</sup> day May, 2019, the Planning Commission (the “Commission”) conducted a properly advertised public hearing (the “Public Hearing”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

**WHEREAS**, on the 11<sup>th</sup> day June, 2019, the City Council (the “Council”) conducted a properly advertised public hearing (the “Public Hearing”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

**WHEREAS**, the City Council made a determination that the Applicant's request for a Conditional Use Permit, subject to the terms of the LDRs and with Conditions imposed, was in Compliance with the City's Comprehensive Plan and LDRs, is consistent with its policy to encourage the development of residential properties and redevelop commercial in Marathon, and will further the health, safety and welfare of the residents of Marathon; and

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

**Section 1.** The above recitals are true and correct and incorporated herein.

**Section 2.** The City Council hereby approves Development Order 2019-10, a copy of which is attached hereto as Exhibit "A", granting a Conditional Use Permit to Captain Pips Holdings, LLC subject to the Conditions imposed. The Director of Planning is authorized to sign the Development Order on behalf of the City.

**Section 3.** This Resolution shall take effect immediately upon execution.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 11<sup>th</sup> DAY OF JUNE, 2019.**

**THE CITY OF MARATHON, FLORIDA**

  
\_\_\_\_\_  
**John Bartus, Mayor**


AYES: Zieg, Gonzalez, Senmartin, Cook, Bartus  
NOES: None  
ABSENT: None  
ABSTAIN: None

**ATTEST:**

  
\_\_\_\_\_  
Diane Clavier, City Clerk

(City Seal)

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

  
\_\_\_\_\_  
David Migut, City Attorney

**EXHIBIT "A"**  
**CITY OF MARATHON, FLORIDA**  
**CONDITIONAL USE**  
**DEVELOPMENT ORDER # 2019-10**

**A DEVELOPMENT ORDER APPROVING A REQUEST FOR A CONDITIONAL USE PERMIT FOR CAPTAIN PIPS HOLDINGS, LLC PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (CODE) ENTITLED "CONDITIONAL USE PERMITS" FOR THE DEVELOPMENT OF A PROPERTY INTO MULTIFAMILY HOUSING, OFFICE AND RESTAURANT, AND MARINA; LOCATED AT 1470 OVERSEAS; WHICH IS LEGALLY DESCRIBED AS PART OF GOVERNMENT LOT 2 AND BAY BOTTOM NORTH OF AND ADJACENT TO LOT 2 AND ADJACENT PORTION OF STATE ROAD 4-A, PART OF GOVERNMENT LOT 2 IN REAR OF HANLEY'S INC, AND BLOCK 3 PART OF LOT 3 AND GOVERNMENT LOT 2 W R THOMPSON SUBDIVISION, SECTION 9, TOWNSHIP 66 SOUTH, RANGE 32, KEY VACCAS, MONROE COUNTY, FLORIDA; HAVING REAL ESTATE NUMBERS 00320350-000000, 00102790-000000, & 00102760-003000, NEAREST MILE MARKER 48.**

**WHEREAS**, Captain Pips Holdings, LLC (The "Applicant") filed an Application on February 4<sup>th</sup>, 2019 for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the City of Marathon Land Development Regulations (LDRs); and

**WHEREAS**, said Captain Pips Holdings, LLC property located at 1470 Overseas Highway (RE Nos. 00320350-000000, 00102790-000000, & 00102760-003000) consists of one residential four-plex and an old commercial structure, used most recently as a restaurant; and

**WHEREAS**, the Applicant has proposed the redevelopment of three (3) existing properties, such that an existing residential four-plex will remain and will build (six (6) market rate residential units and one (1) affordable residential unit in one multi-plex and, in addition, construct 3,200 square feet of commercial and accessory commercial structures; and

**WHEREAS**, the City staff reviewed the Applicant's request for a Conditional Use Permit determining that the Applicant's project proposal is in compliance with the City's Comprehensive Plan and Land Development Regulations (LDRs) and further that there was no substantial impact on the City's Level of Service (LOS); and

**WHEREAS**, on the 20<sup>th</sup> day May, 2019, the Planning Commission (the "Commission") conducted a properly advertised public hearing (the "Public Hearing") regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

**WHEREAS**, on the 11<sup>th</sup> day June, 2019, the City Council (the "Council") conducted a properly advertised public hearing (the "Public Hearing") regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

**WHEREAS**, the City Council made a determination that the Applicant's request for a Conditional Use Permit, subject to the terms of the LDRs and with Conditions imposed, was in Compliance with the City's Comprehensive Plan and LDRs, is consistent with its policy to encourage the development of residential properties and redevelop commercial in Marathon, and will further the health, safety and welfare of the residents of Marathon; and



### **FINDINGS OF FACT:**

1. The Applicant has proposed the redevelopment of three (3) existing properties, such that an existing residential four-plex will remain and will build (six (6) market rate residential units and one (1) affordable residential unit in one multi-plex and, in addition, construct 3,200 square feet of commercial and accessory commercial structures (Site Plan Attached as Attachment 1; and
2. In accordance with Section 102.77 of the Code, the Commission and Council considered and determined the Applicant met the following criteria:
  - a. The proposed use is consistent with the Comprehensive Plan and LDRs;
  - b. The proposed use is compatible with the existing land use pattern and future uses designated by the Comprehensive Plan;
  - c. The proposed use shall not adversely affect the health, safety, and welfare of the public; and
  - 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; and
  - 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 case of fire or catastrophe;
    - 2) Off-street parking and loading areas where required, with particular attention to item 1 above;
    - 3) The noise, glare or odor effects of the conditional use on surrounding properties;
    - 4) Refuse and service areas, with particular reference to location, screening and Items 1 and 2 above;
    - 5) Utilities, with reference to location and availability;
    - 6) Screening and buffering with reference to type, dimensions and character;
    - 7) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety and compatibility with surrounding properties;
    - 8) Required yards and other open space;
    - 9) General compatibility with surrounding properties; and

### **CONDITIONS IMPOSED:**

Granting approval of the Application is subject to the following conditions:

#### **Conditions of Approval**

1. A Final Site Plan must be submitted showing the existing (to be retained) and proposed buildings meeting the required setbacks, the specific setbacks for the old building footprint, parking locations, and access drives and all civil engineering features; and
2. City approval of the connection to the City Wastewater Utility is required, including:
  - a. engineering drawings as needed,
  - b. projected wastewater flows, and

- c. any easements, connections, and projected flows for Casa Cayo.
- 3. City approval is required for the stormwater management system prior to Building Permit Approval.
- 4. The applicant will provide fire protection plans in accordance with fire protection requirements as outlined by the City Fire Marshal (attached as Exhibit A)
- 5. A Final Landscape Plan must be submitted showing the proper treatments and buffers, including the appropriate treatment types and trees.
- 6. The final site plan must show that the dumpsters are screened.
- 7. All signs shall be reviewed and approved for compliance with the City of Marathon LDR's.
- 8. If the redevelopment is found to have any effect on the Eastern Indigo Snake Habitat, then the prescribed protection measures must be undertaken, and the information poster posted on site.
- 9. All mangroves associated with the northern portion of the parcel, north of the access easement to Casa Cayo, shall remain intact and may not be removed per the City's protection provisions for Mangrove Habitats.
- 10. For the Affordable unit
  - a. Dwelling units shall contain less than or equal to 1,800 square feet of habitable space.
  - b. Occupancy of affordable housing units is limited to those meeting the following income requirements:
    - i. Very-low-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 50 percent of the median adjusted gross annual income for households within the county;
    - ii. Low-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 80 percent of the median adjusted gross annual income for households within the county;
    - iii. Median-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 100 percent of the median adjusted gross annual income for households within the county;
    - iv. Moderate-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 120 percent of the median adjusted gross annual income for households within the county;
    - v. Middle-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 160 percent of the median adjusted gross annual income within the county;
  - c. For the purposes of this section, "adjusted gross income" means all wages, income from assets, regular cash or non-cash contributions or gifts from persons outside the household (that will be used to offset the purchase price of the dwelling unit), and such other resources and benefits as may be determined to be income by the United States Department of Housing and Urban Development, adjusted for family size, less deductions allowable under Section 62 of the Internal Revenue Code. Income from assets is calculated at either the actual income from all assets or two (2%) percent of the value of all assets, whichever is greater. If total assets are less than \$5,000.00, no income is considered. Asset inclusions: Cash accounts (checking, savings, IRA, Money Market...), investments, retirement accounts, boats, RV's. Income exclusions: Personal property, automobiles;
  - d. The maximum sales price shall not exceed 300 percent of that amount which represents 160 percent of the median adjusted gross annual income for households within the county;
  - e. The monthly rent shall not exceed 30 percent of that amount which represents the income bracket of the household, i.e., very low, low, median, moderate or middle, divided by 12. In no case shall the monthly rent exceed 160 percent of the median adjusted gross annual income for households within the county, divided by 12; and
  - f. If the dwelling units utilize affordable housing BPAS allocations, the requirements of



Subsection 107.06(c) shall also apply.

- g. Annual income qualification, lease or employment verification, as applicable, by the City, or its designee, shall be limited to rental and employee housing dwelling units. Income verification for owner occupied dwellings shall be performed and approved by the City or its designee prior to the sales closing and occupancy of the dwelling unit.
- h. Two (2) side yards are required for stacked duplexes.
- i. Townhouses are limited to ten (10) dwelling units per row, except for affordable housing.
- j. The private yard area for rooftop balcony dwelling is provided by the roof or balconies of the structure.
- k. The total area of the mixed-use or commercial apartments, including patios and access way shall not exceed the area covered by the ground floor and any covered walks or arcades.
- l. Each unit shall have access to a balcony or patio that is separate from the access to the unit, provides adequate privacy and the size shall be two-tenths (2/10) of unit floor area or a minimum of 60 square feet in size.
- m. The patio area may be wholly or partially replaced by the provision of a recreation yard provided on site. Recreational yards shall be a minimum one-tenth (1/10) of unit floor area.
- 11. Outdoor storage shall be incidental and subordinate to the primary use located on the property.
- 12. Storage areas shall be located to the side or rear of the principal building and completely screened from view.
- 13. Prior to the issuance of any permit under this article, special conditions may be imposed for such permit. These conditions should include any item which can be reasonably expected to enhance the probability that the proposed activity will be conducted in compliance with the intent of this article. Those conditions may include, but are not limited to, field inspections by City staff, reports, monitoring, bonding, easements, guaranteed survival of non-affected and/or replanted vegetation, protective barriers, setbacks, protective earthwork, replants, signage, restoration and/or mitigation. Conditions may also be applied in order to assure consistency with the Comprehensive Plan.
- 14. Prior to the issuance of the Certificate of Occupancy, the marina shall obtain and maintain a Marina Operating Permit, in compliance with all standards of Article 24, Chapter 102.
- 15. It shall be unlawful for any person to deviate from the specific conditions of the permit as set forth by this article without the prior approval of the Planning Director or City Council as appropriate.
- 16. A unity of title must be recorded with the Clerk of Courts, prior to permit issuance.
- 17. Affordable housing deed restrictions must be recorded with the Clerk of Courts, prior to permit issuance.
- 18. The Conditional Use Development Order will constitute the Certificate of Concurrence for the project. The determination will be valid for one year.
- 19. The Applicant must obtain or transfer seven (7) housing units, to be transferred via the Transfer of Building Rights (TBR's), BPAS process, or any other legally established process prior to building permit issuance. THE APPROVAL OF THE REQUESTED CONDITIONAL USE PERMIT AMENDMENTS DO NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF ANY MARKET RATE RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT.

#### **VIOLATION OF CONDITIONS:**

The applicant understands and acknowledges that it must comply with all of the terms and conditions herein, and all other applicable requirements of the City or other governmental agencies applicable to the use of the Property. In accordance with the Code, the Council may revoke this approval upon a determination that the Applicant or its successor or designee is in non-compliance with this Resolution or

Code. Failure to adhere to the terms and conditions of approval contained herein is a violation of the Code and persons found violating the conditions shall be subject to the penalties prescribed therein.

**CONCLUSIONS OF LAW:**

Based upon the above Findings of Fact, the Council does hereby make the following Conclusions of Law:

1. The Application has been processed in accordance with the applicable provisions of the City Code, and will not be detrimental to the community as a whole; and
2. In rendering its decision, as reflected in this Resolution, the Council has:
  - (a) Accorded procedural due process;
  - (b) Observed the essential requirements of the law;
  - (c) Supported its decision by substantial competent evidence of record; and
3. The Application for a conditional use permit is hereby GRANTED subject to the conditions specified herein.

**EFFECTIVE DATE:**

This development order shall not take effect for thirty (30) days following the date it is filed with the City Clerk, and during that time, the conditional use approval granted herein shall be subject to appeal as provided in the City Code. An appeal shall stay the effectiveness of this development order until said appeal is resolved.

6/18/19

Date

George Garrett  
George Garrett  
Director of Planning

This Development Order was filed in the Office of the City Clerk of this 18 day of June, 2019.

Diane Clavier  
Diane Clavier, City Clerk

**NOTICE**

Under the authority of Section 102.79(c) of the City of Marathon Land Development Regulations, this development order shall become null and void with no further notice required by the City, unless a business license has been issued for the use or a complete building permit application for site preparation and building construction with revised plans as required herein is submitted to the City of Marathon Building Official within one (1) year from the date of conditional use approval, or the date when the Department of Community Affairs waives its appeal and all required certificates of occupancy are procured with three (3) years of the date of this development order is approved by the City Council.

In addition, please be advised that pursuant to Chapter 9J-1, Florida Administrative Code, this instrument shall not take effect for forty-five (45) days following the rendition to the Florida Department of Community Affairs. During that forty-five days, the Florida Department of Economic Opportunity may

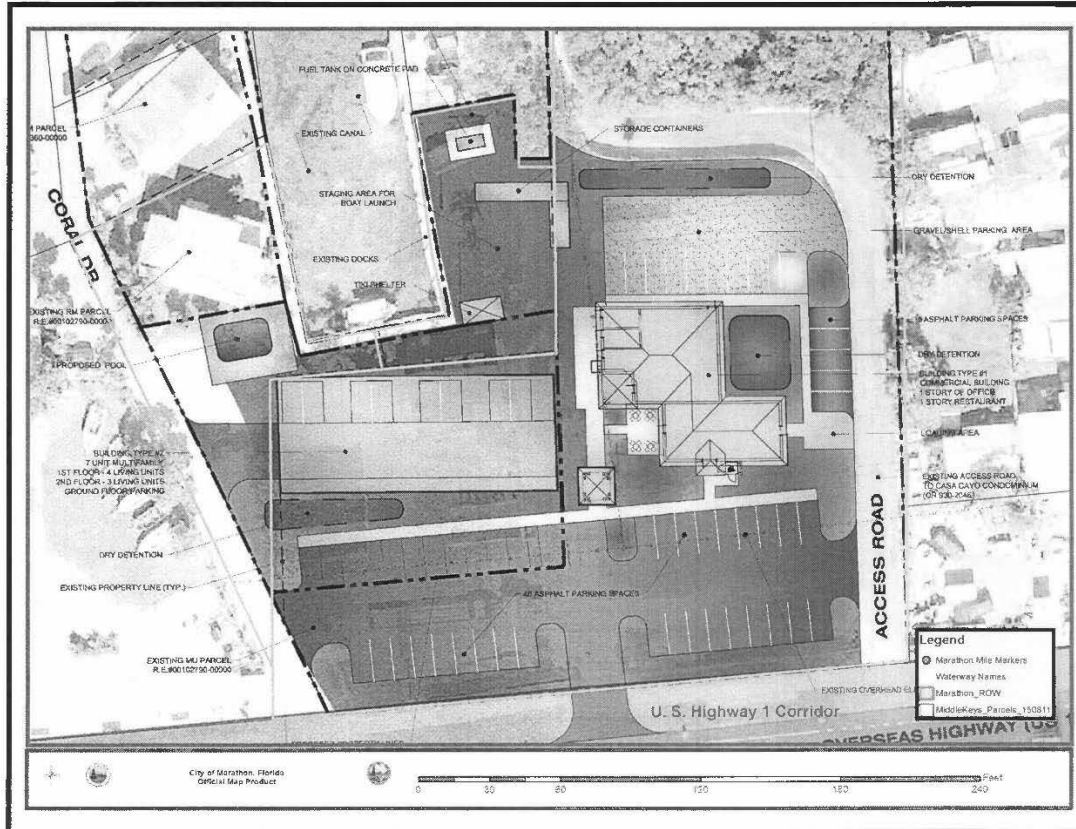
appeal this instrument to the Florida Land and Water Adjudicatory Commission, and that such an appeal stays the effectiveness of this instrument until the appeal is resolved by agreement or order.

#### **CERTIFICATE OF SERVICE**

A true and correct copy of the above and foregoing Resolution was furnished, via U.S. certified mail, return receipt requested, addressed to Captain Pip's Holdings LLC, 1410 Overseas Highway, Marathon, FL 33050 this 18 day of June, 2019.

  
Diane Clavier, City Clerk

Attachment 1  
Approved Site Plan





## PLANNING COMMISSION AGENDA STATEMENT



**Meeting Date:** November 18, 2024

**To:** City of Marathon Planning Commission

**From:** Brian Shea, Director of Planning

**Agenda Item:** Consideration Of A Request By The City Of Marathon For A Variance Pursuant To Chapter 102 Article 20 And Chapter 107 Article 12 Section 107.102.3 Entitled Variances And Appeals, Requesting A Variance From The Provisions Of Dry Floodproofing; Seeking A Variance To Wet Floodproof The Quay Restrooms; Located At 12650 Overseas Highway; Which Is Legally Described As Part Of Lot 1 And Adjacent Part Of The Road ROW, Section 5 Township 66 Range 33, Fat Deer Key, Monroe County, Florida, Having Real Estate Number 00100330-000000.

**APPLICANT/ OWNER:** City of Marathon

**PROJECT LOCATION:** The project is located on one (1) parcel located at 12650 Overseas Highway.

**PROJECT SIZE:** Total acreage 1.78 Acres or 77,640 square feet

**EXISTING CONDITIONS:**

This parcel is a vacant lot with parking for the adjacent boat ramp.

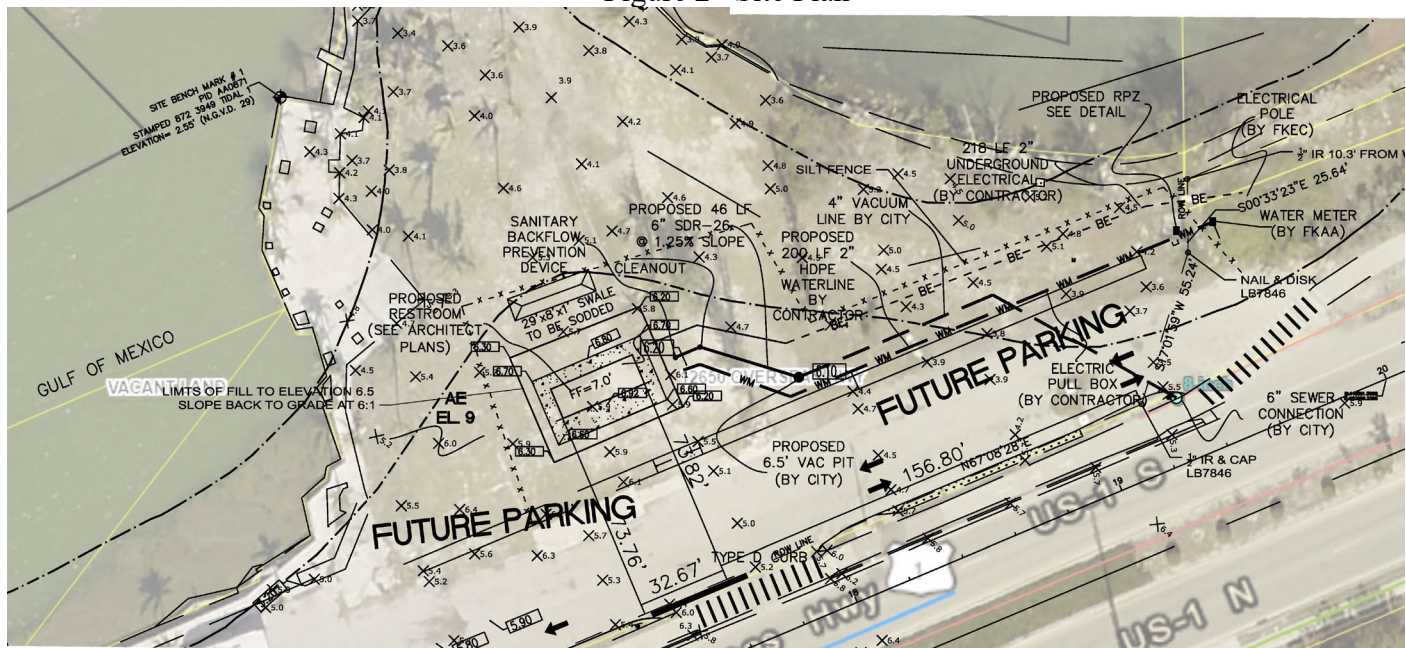
Figure 1 – Location Map



## PROJECT PROPOSAL:

The Applicant is seeking a variance to wet floodproof a bathroom structure in lieu of dry floodproofing the structure. However, as required by FEMA the option to wet floodproof a bathroom requires a variance.

Figure 2 –Site Plan



## BACKGROUND:

The Planning Commission shall hear and decide on requests for appeals and requests for variances from the strict application of this ordinance. Pursuant to Fla. Stat. § 553.73(5), the Planning Commission shall hear and decide on requests for appeals and requests for variances from the strict application of the flood resistant construction requirements of the Florida Building Code. This section does not apply to Section 3109 of the Florida Building Code, Building. The Planning Commission shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in Section 107.102.3.F of this ordinance, the conditions of issuance set forth in Section 107.102.3.G of this ordinance, and the comments and recommendations of the Floodplain Administrator and the Building Official. The Planning Commission has the right to attach such conditions as it deems necessary to further the purposes and objectives of this ordinance. A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use, as defined in this ordinance, is the minimum necessary considering the flood hazard, and all due consideration has been given to use of methods and materials that minimize flood damage during occurrence of the base flood. A functionally dependent use is a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, including only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities; the term does not include long-term storage or related manufacturing facilities.

Communities may grant variances to allow new construction or substantial improvement of functionally dependent uses without requiring compliance with elevation or dry floodproofing requirements. Variances should be issued only after determining whether inclusion of wet floodproofed measures satisfies the requirement that variances be the minimum necessary. In addition to general criteria for variances, the NFIP regulations at 44 CFR § 60.6(a)(7) provide that functionally dependent uses must be protected by methods that minimize flood damage during the base flood and must create no additional threat to public safety. Wet floodproofing measures may reduce the potential for damage. Communities may consider requests for variances to floodplain management regulations even

when those variances are not explicitly identified in the NFIP regulations for variances. FEMA policy and guidance explicitly state that communities must use variances to approve accessory structures that are larger than the size limits established in FEMA P-2140.

Pursuant to Section 107.102.3.G, Variances shall be issued only upon:

1. Submission by the applicant, of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of this ordinance or the required elevation standards.
2. Determination by the Planning Commission that:
  1. Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;
  2. The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws and ordinances; and
  3. The variance is the minimum necessary, considering the flood hazard, to afford relief;
3. Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the Office of the Clerk of the Court in such a manner that it appears in the chain of title of the affected parcel of land; and
4. If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the Floodplain Administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as \$25.00 for \$100.00 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

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

This request is being evaluated in accordance with Section 102.120. The criteria contemplated for a variance under other circumstances are “hardship” criteria.

In accordance with Section 102.120 of the Code the following criteria applies:

**A. *Special Circumstances:***

The Quay property is a unique shape, which is further limited by the existing flood zones on the parcel.

**B. *Hardships:***

If located in the VE flood zone, any restroom cannot be floodproofed and must be elevated. The parcel is also owned by the government and is tied to the adjacent ramp, and future proposed improvements.

**C. *No Detriment:***

There would be no detriment to the public good, nor any substantial impairments to natural resources created through the denial or grant of this variance.

**D. *No Special Privileges:***

The Floodplain Management regulations do set forth procedures to grant variances specifically as they apply to flood. Those are elaborated further within this staff report.

**E. *Use Authorized:***

A restroom facility is a permitted use in this zoning district. Other proposed uses on this site will require conditional use approval, but those will be addressed as the phases of the project move forward.

**F. *Relevant Factors:***

**1. Physical Characteristics of the proposed construction.**

A 9' wide by 32' long concrete block restroom facility with a slanted roof. The applicant is proposing a floor elevation so 7' NGVD with 3' of wet floodproofing and flood resistant materials.

**2. Whether the use of the property is dependent upon granting the variance.**

The use of the property does not rely on the granting of the variance. The structure still has the ability to be elevated above design flood, or dry floodproofed to design flood elevations.

**3. Whether granting the variance increases or decreases the danger to life and property.**

There is no change or difference to dangers to life and property if the structure is dry floodproofed or wet floodproofed.

**4. The importance to the community of the services to be provided if the variance is granted.**

Whether variance is approved for wet floodproofing or not, a restroom facility is still a necessary community service at this site.

**5. The compatibility of the proposed variance to the surrounding properties.**

The restroom as proposed with dry or wet floodproofing does not affect compatibility with what is proposed on the site for development. Neighboring properties to the east are residential which are not allowed to be floodproofed. Properties to the west are a commercial restaurant which is at grade, which has elevated cooking and restroom facilities.

**6. The ability to safely access the property by regular and emergency vehicles if the variance is not granted.**

There is no change to access for emergency vehicles if the variance is granted or denied.

**7. The costs of provided governmental services if the variance is or not granted.**

If the variance is not granted, then there are the additional costs to update the plans as well as the costs of the change order.

**Pursuant to 107.102.3.F, in reviewing requests for variances, the Planning Commission shall consider all technical evaluations, all relevant factors, all other applicable provisions of the Florida Building Code, this ordinance, and the following:**

**1. The danger that materials and debris may be swept onto other lands resulting in further injury or damage;**

There is no change or difference in regard to debris on this property or others if the structure is dry floodproofed or wet floodproofed. One additional condition based upon FEMA publications would be that no chemicals should be stored at the restroom facility.

**2. The danger to life and property due to flooding or erosion damage;**

There is no change or difference to dangers to life and property if the structure is dry floodproofed or wet floodproofed.



**3. The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;**

The electrical for the structure is proposed to be above flood in both scenarios. If the structure is wet floodproofed, then a gate valve is installed so that no floodwater enters our sewer system. The materials of the bathroom are designed to meet the FEMA requirements of flood resistant materials pursuant to “Flood Damage-Resistant Materials Requirements for Buildings Located in Special Flood Hazard Areas in accordance with the National Flood Insurance Program, Technical Bulletin 2 / August 2008.”

**4. The importance of the services provided by the proposed development to the community;**

Restroom facilities for the boat ramp were one of the highest requested elements from the public as part of the public participation process for the development of the Quay site.

**5. The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;**

The restroom is located in the lowest elevation AE flood zone of the property, the entire property is located in a flood zone.

**6. The compatibility of the proposed development with existing and anticipated development;**

The restroom as proposed with dry or wet floodproofing does not affect what is proposed on the site for development.

**7. The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;**

Policy 4-1.3.3 Surface Water Management and Flood Damage Prevention

The City shall continue to maintain surface water management and flood damage prevention regulations. New development encroaching into the 100-year floodplain shall incorporate elevation and flood protection measures sufficient to protect against the 100-year flood. The City shall maintain consistency with program policies of the National Flood Insurance Program. The City shall monitor new cost-effective programs for minimizing flood damage. Such programs may include modifications to construction setback requirements or other site design techniques, as well as upgraded building and construction techniques.

The building is proposed to be floodproofed to 1’ above the 100-year floodplain, thus is consistent with the Comprehensive Plan.

**8. The safety of access to the property in times of flooding for ordinary and emergency vehicles;**

There is no change or difference to access to the property if the structure is dry floodproofed or wet floodproofed.

**9. The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and**

The restroom is proposed in the AE9 flood zone elevation. The remainder of the property is located in a VE flood zone. Wet or dry floodproofing would be required to a height of 10’ NGVD based upon the design flood elevation.

**10. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets, and bridges.**

Should the City fail to close the gate valve, then there could be potential damage to City facilities as it relates to sewer. With either wet or dry floodproofing, there is still the risk of damage to City property if the structure is damaged in some other fashion.

**Conditions of approval:**

1. Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the Office of the Clerk of the Court in such a manner that it appears in the chain of title of the affected parcel of land.
2. A copy in the record of a written notice from the Floodplain Administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as \$25.00 for \$100.00 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.
3. No chemicals may be stored within the restroom.