



City of Marathon Planning Commission
Monday February 24, 2025
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**
-

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 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

Items 1 And 2. Consideration Of A Request By Wharf Marina, Inc. For A Development Agreement And A Conditional Use Permit, Pursuant To Chapter 102, Articles 8 And 13 Of The City Of Marathon Land Development Regulations (LDRs) Entitled “Development Agreement” And “Conditional Use Permits” Respectively, For The Development Of A Property Into Five (5) Transient Units, 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.

Items 3 And 4. Consideration Of A Request By Wharf Marina, Inc. For A Development Agreement And A Conditional Use Permit, Pursuant To Chapter 102, Articles 8 And 13 Of The City Of Marathon Land Development Regulations (LDRs) Entitled “Development Agreement” And “Conditional Use Permits” Respectively, Authorizing The Development Of A Restaurant,

Marina, Retail Shop And Eleven (11) Transient Housing Units At The Property Located At **1622** Overseas Highway, Which Is Legally Described As 9 66 32 Key Vaccas Part Lot 2 & Bay Bottom North Of & Adjacent To Part Government Lot 2 (PT ST RD 4-A), Marathon, Monroe County, Florida, Having Real Estate Number 00102600-000000. Nearest Mile Marker 48.



**City of Marathon Planning Commission
Monday November 18, 2024
9805 Overseas Hwy
City Hall Council Chambers**

MINUTES

Royse called the meeting of the Planning Commission to order on Monday November 18, 2024, at 5:30 pm.

In attendance: Planning Director Brian Shea, Attorney Steve Williams, Planner Erin Dafoe, Planner Amber Stonik, 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. Cinque seconded. The motion was approved 5-0.

The quasi-judicial statement was read into the record.

Item 1 was pulled from the agenda. 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.

Item 2 was read into the record: 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.

Brian Shea presented the item. The city is requesting wet flood proofing the restrooms at the Quay location. Senmartin asked about the cost difference. Carlos Solis, Public Works director, explained the cost would be less than trying to elevate the restrooms above flood.

Cinque asked if a private citizen could get this variance and would hope that the city would be held to the same standards as the citizens they serve.

Royce asked for the hardship regarding a commercial bathroom. Shea explained the floodproofing is only allowed in an AE flood zone. Floodproofing is not allowed in a VE zone, and the structure would have to be elevated. Most of the site is a VE zone. The restroom will be in the small section of land that is in the AE zone.

George asked why not dry proofing? Solis explained the better design for a free-standing restroom would be wetproofing.

Sexton asked what the difference is between insuring a ground level room vs. a raised, dry-proofed room? Shea stated that the city is only required to advise that insurance may be affected. Sexton asked if the tax implications are worth wetproofing? Risk Management handles the insurance for the city. Sexton requested to hear what the insurance will be for wet floodproofing versus what it would be for dry floodproofing.

Solis explained turning off the valve so that salt water does not get into the system, which would be a long-term problem, not an immediate problem.

After a brief discussion, Senmartin moved to approve the item. Sexton seconded. The roll was called. The motion passed 5-0.

Item 3 was pulled from the agenda. 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.

Motion and second to adjourn at 5:55pm.

ATTEST:

MaryAnn Royse-Planning Commissioner Chair

ATTEST:

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.)

PLANNING COMMISSION AGENDA STATEMENT



Meeting Date: February 24, 2025

To: Planning Commissioners

From: Erin Dafoe, Associate Planner

Agenda Item: Consideration Of A Request By Wharf Marina, Inc. For A Development Agreement And A Conditional Use Permit, Pursuant To Chapter 102, Articles 8 And 13 Of The City Of Marathon Land Development Regulations (LDRs) Entitled “Development Agreement” And “Conditional Use Permits” Respectively, For The Development Of A Property Into Five (5) Transient Units, 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.

APPLICANT/ OWNER: Steve Hurley/Wharf Marina, Inc.

AGENT: Steve Hurley

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 Permit 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

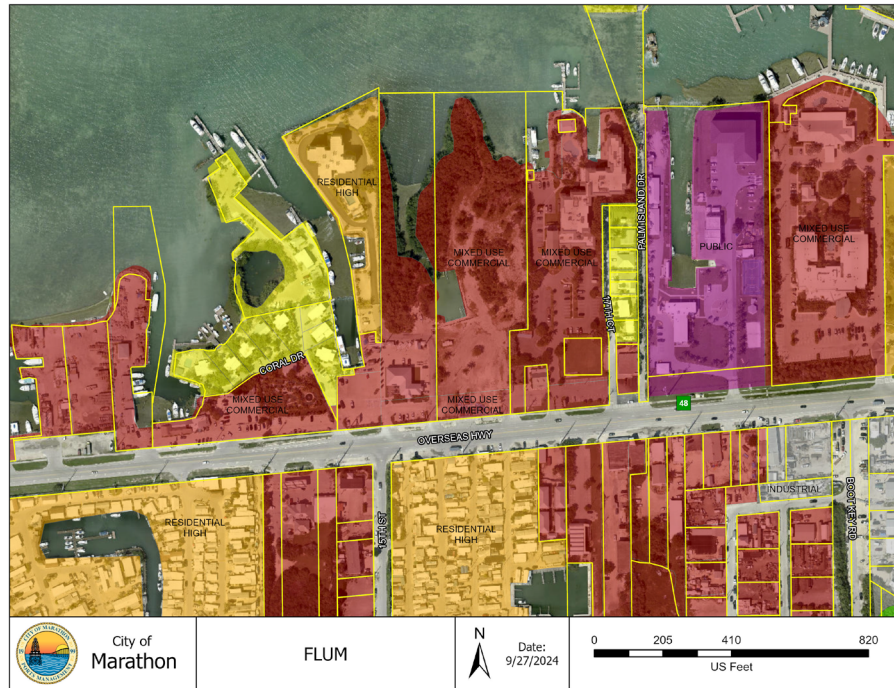
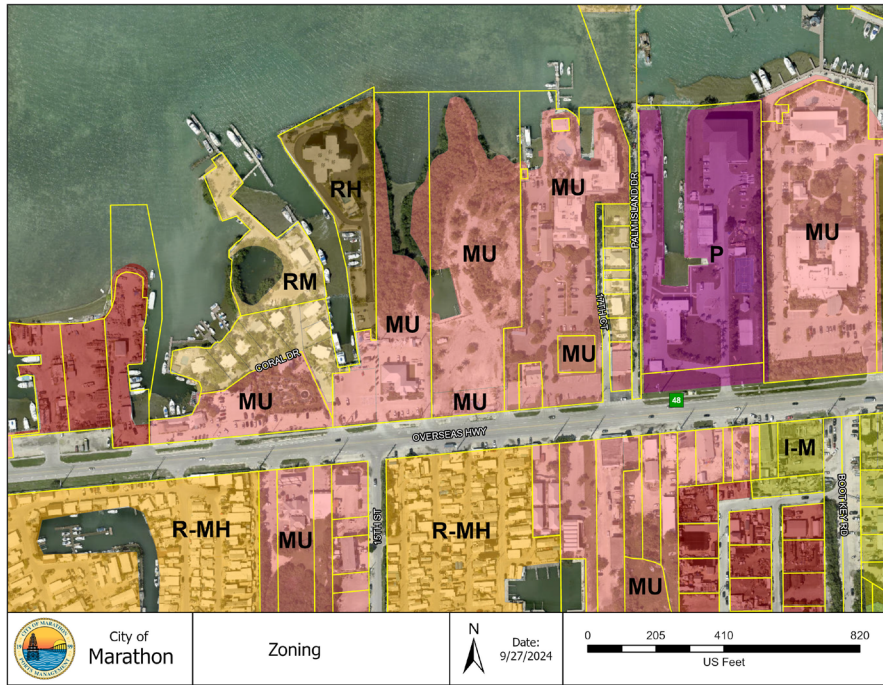


Figure 4: Zoning Map



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>Zoning</u>	<u>Use</u>
North	Residential Medium and Residential High	Harbor Cay Club
East	Mixed Use	Vacant Land
South	Mixed Use and Residential Mobile Home	Trailerama, Dion's
West	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 from the previous Conditional Use approval have yet to be constructed.

PROPOSED REDEVELOPMENT:

Transient Units: 5 transient units.
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. Previous approvals included 6 Market Rate and 1 Affordable Unit; these are no longer being proposed.

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) transient units. Allowed density is 5-25 Units per acre for Transient units. The Mixed-Use Commercial building has already been constructed as the Captain Pips & Starbucks. The Five (5) Transient units over parking have yet to be constructed. The required minimum lot area per unit is 1,742 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 similar 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;

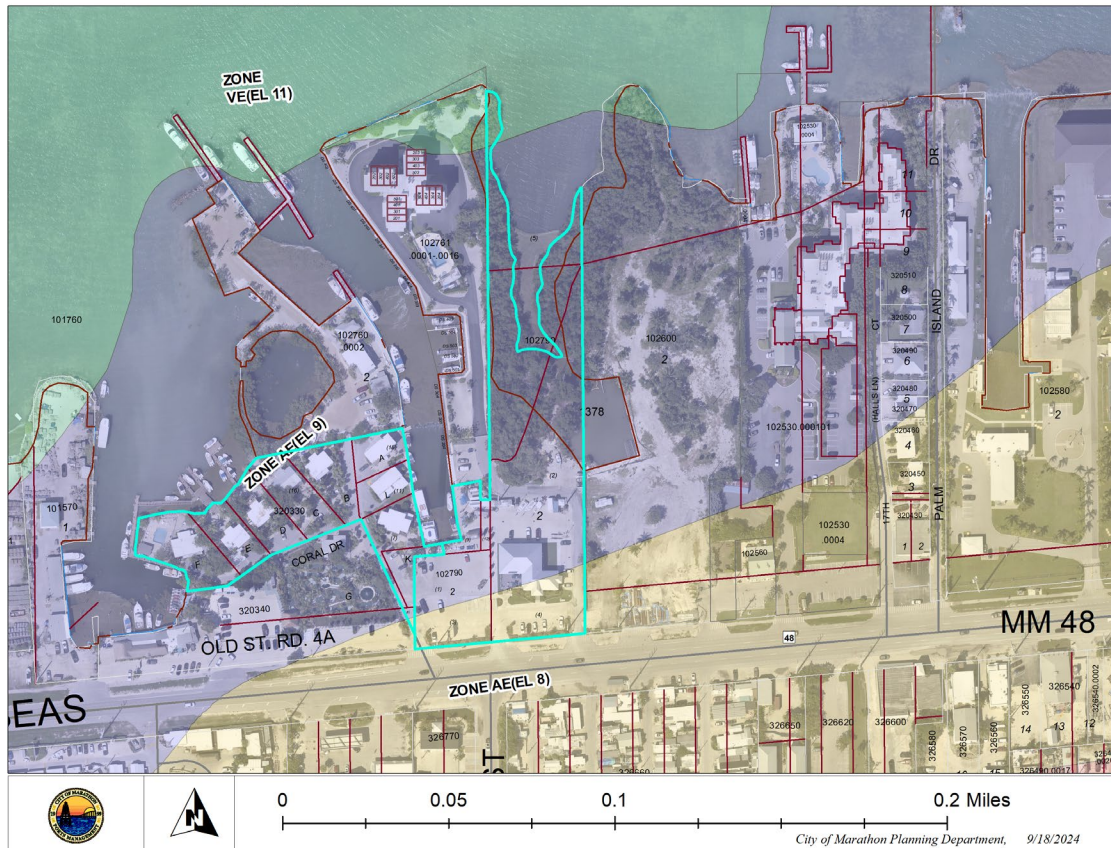
The proposed use is the creation of residential use which has not had any known impact to the health, safety, and welfare of the public. Additionally, the creation of the office and restaurant space are not expected to create any adverse impacts to the health, safety, and welfare of the public.

The marina will also be required to meet the following criteria as additional protection 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 other natural resources, including shorelines, so as to be contrary to the public interest;
- Will not have a material adverse effect upon the uplands surrounding or necessarily affected by such plan or development;
- Will not have a material adverse effect on the community character or safety, health, and welfare of the general public; or
- Will not be inconsistent with adopted State plans (i.e., manatee protection plans), the City of Marathon Comprehensive Plan, other formally adopted natural resource management plans, or any other City ordinances or regulations.

Plans submitted with the project are suitable for the Conditional Use Approval as they relate to Chapter 107, Article 12, 100 Year Floodplain. Final review of floodplain compliance will occur as part of building permit issuance.

Figure 4: FEMA Flood Maps



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 existing conditions map indicates 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.

Conservation easement for mangrove area will be required pursuant to Section 106.02.

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 posted on site.

- A final Landscape/mitigation plan must be submitted prior to permit issuance.
- Conservation Easement for mangrove area will be required pursuant to Section 106.02.

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 Captain Pip's - Residential Trip Generation Summary Marathon, Florida								
Land Use	Size	Daily Trips	AM Peak Hour Trips			PM Peak Hour Trips		
			In	Out	Total	In	Out	Total
<i>Approved</i> Multifamily Housing (Low-Rise)	7 DU	42	1	2	3	3	1	4
<i>Proposed</i> Transient Housing (Hotel)	5 DU	38	1	2	3	2	1	3
Difference (Proposed - Approved)		4	0	0	0	1	0	1

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 transient units, one parking space per bedroom is required for each unit. One space is required for every 2 bedrooms, one space per every three employees. 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 spaces are required. The site plan provided a total of 50 parking spaces.

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 a full topographic survey up twenty-five 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 a full topographic survey up twenty-five 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.
- Area 3 WWTP has only the capacity for the existing EDU's assigned to this property. No more capacity will be available until the plant is expanded.

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 area 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 is 20' as measured from MHWL or mangrove fringe whichever is further landward.

This plan shows an 87' setback on the front yard, 62' setback on the 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, although 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 needs 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 104.25 Hotels or Motels

The following criteria are applicable to this redevelopment:

An existing hotel or motel may be redeveloped pursuant to Table 103.15.1, subject to the following standards:

A. General Provisions

1. Each hotel or motel shall comply with all mandatory hurricane evacuation requirements set forth by the City for hotel, motel, and other transient uses.
2. Each hotel or motel shall establish and maintain shuttle transport services to airports and tourist attractions individually or in conjunction with other hotel or motel operators.
3. Except as provided in Subsection (a), all hotel or motels shall provide on- or off-site employee housing living space in an amount equal to a minimum of 25 percent (as may be adjusted from time to time by Council policy to reflect economic conditions) of the approved floor area in guest units; and such housing shall be of any of the following types as outlined in (b) below:
 - a. An exception to the requirement for on- or off-site employee housing living space for hotel/motel redevelopment may be recommended by the Planning Director, the Planning Commission, and approved by the City Council as part of a conditional use and/or development agreement when the following criteria are met:
 - 1) No increase in the number of hotel/motel transient units (unit as described in Subsection 104.25A.4. of the LDRs);

- 2) No use of transferable building rights (TBRs) (as described specifically in Subsection 107.14B. of the LDRs;
 - 3) No significant change (+ or – 10%) in the current project floor area (Floor area as defined in Chapter 110, Article 3 of the LDRs);
 - 4) No significant difference between the current and proposed uses of floor area;
 - 5) No effort to move units off-site through TBRs as part of the proposed project, though they may be documented and preserved for future use; and
 - 6) No significant change or increase in the size or type of project site amenities.
- b. *Housing types.*
- 1) Dormitory pursuant to Section 104.15;
 - 2) Community Workforce Housing Unit pursuant to Section 104.13.
4. All entrances to a hotel or motel unit shall share the same key or means of controlling access so that the hotel or motel room as defined herein is not divisible into separately rentable units.
 5. All hotels or motels must provide a lobby for guests to check in/out.

B. *Redevelopment Criteria.*

- 1) An existing hotel or motel room may be redeveloped to a unit not exceeding 1,500 square feet consisting of no more than two and one-half (2 1/2) bathrooms, three (3) bedrooms and one (1) other living area, subject to the following rates of redevelopment:
 - a. A one (1) bedroom unit may redevelop as a one (1) bedroom unit, without a reduction in the number of units; and
 - b. A one (1) bedroom unit may redevelop as a two (2) bedroom unit at the rate of 90 percent of the one (1) bedroom units being redeveloped as two (2) bedroom units; and
 - c. A one (1) bedroom unit may redevelop as a three (3) bedroom unit at the rate of 80 percent of the one (1) bedroom units being redeveloped as three (3) bedroom units.
- 2) The number of units reduced and not included in the redevelopment shall be tracked over time and registered with the City as Conditional Redevelopment Units and reflected in the data and analysis of the Comprehensive Plan as it is amended.
- 3) Existing hotel units, which exceed allocated densities, may redevelop provided: (1) the parcel has a stormwater management system which meets the requirements of Article 11, of Chapter 107; (2) the wastewater treatment system meets Best Available Treatment wastewater standards; and (3) the structures meet the shoreline setback criteria as established in Article 4 "Open Water, Surface Waters and Wetlands" of Chapter 106.
- 4) As a condition of redevelopment, the developer and the City shall enter into a Development Agreement, in addition to compliance with all other provisions of the Code.
- 5) Redevelopment shall be clustered to the least environmentally sensitive portion of the property pursuant to Section 106.16 to protect existing habitat on site.
- 6) The City may consider, at a future time, proposed amendments to the LDRs to authorize the construction of Conditional Redevelopment Units. Prior to the consideration of such

amendment, the City must demonstrate that: (1) a significant reduction in Hurricane Clearance Time has been achieved for the mandatory evacuation of permanent residents; (2) the Conditional Redevelopment Units have been tracked; and (3) other environmental and land use issues have been addressed.

- 7) Notwithstanding the foregoing, the developer of a hotel or motel containing less than 12 units may convert existing, lawfully established accessory floor area in the hotel or motel to a second bedroom or third bedroom, as the case may be, to an adjacent existing hotel or motel unit without triggering the requirements of Subsections B.1 or B.4 above; provided, however, that the additional floor area hereunder shall not exceed 425 square feet per unit or 850 square feet in the aggregate per property.

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 ensure 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, 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. Area 3 WWTP has only the capacity for the existing EDU's assigned to this property. No more capacity will be available until the plant is expanded.
5. The applicant will provide fire protection plans in accordance with fire protection requirements as outlined by the City Fire Marshal (attached as Exhibit A)
6. A Final Landscape Plan must be submitted showing the proper treatments and buffers, including the appropriate treatment types and trees.
7. The final site plan must show that the dumpsters are screened.
8. All signs shall be reviewed and approved for compliance with the City of Marathon LDR's.
9. 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.
10. 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.
11. Conservation Easement for mangrove area will be required pursuant to Section 106.02.
12. Outdoor storage shall be incidental and subordinate to the primary use located on the property.
13. Storage areas shall be located to the side or rear of the principal building and completely screened from view.
14. 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 ensure consistency with the Comprehensive Plan.

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. The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.
17. 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.
18. Property lines must be reconfigured so that all duplex buildings and associated parking are within the same parcel.
19. *A. General Provisions*
 1. Each hotel or motel shall comply with all mandatory hurricane evacuation requirements set forth by the City for hotel, motel, and other transient uses.
 2. Each hotel or motel shall establish and maintain shuttle transport services to airports and tourist attractions individually or in conjunction with other hotel or motel operators.
 3. Except as provided in Subsection (a), all hotel or motels shall provide on- or off-site employee housing living space in an amount equal to a minimum of 25 percent (as may be adjusted from time to time by Council policy to reflect economic conditions) of the approved floor area in guest units; and such housing shall be of any of the following types as outlined in (b) below:
 - a. An exception to the requirement for on- or off-site employee housing living space for hotel/motel redevelopment may be recommended by the Planning Director, the Planning Commission, and approved by the City Council as part of a conditional use and/or development agreement when the following criteria are met:
 - 1) No increase in the number of hotel/motel transient units (unit as described in Subsection 104.25A.4. of the LDRs);
 - 2) No use of transferable building rights (TBRs) (as described specifically in Subsection 107.14B. of the LDRs);
 - 3) No significant change (+ or - 10%) in the current project floor area (Floor area as defined in Chapter 110, Article 3 of the LDRs);
 - 4) No significant difference between the current and proposed uses of floor area;

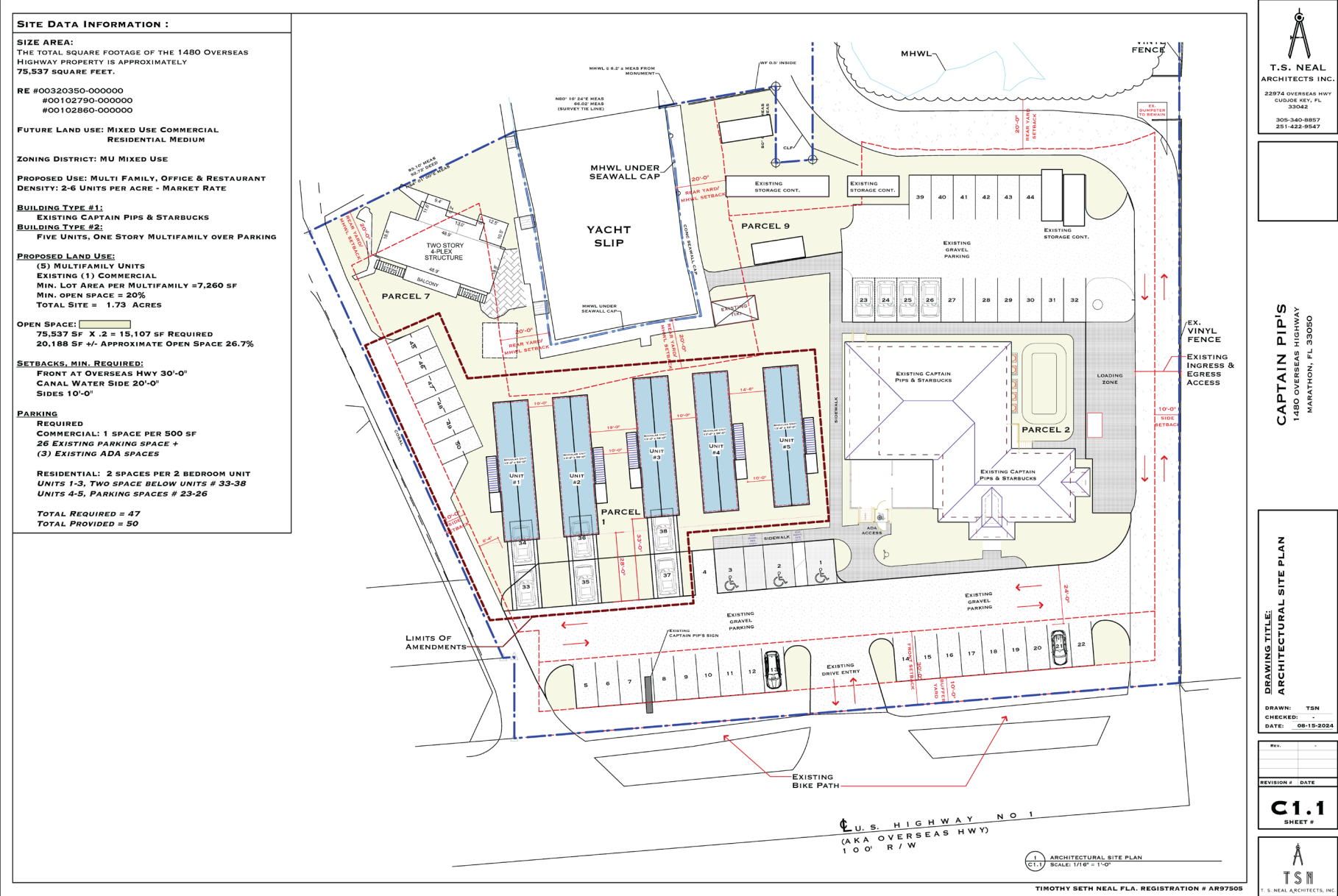
- 5) No effort to move units off-site through TBRs as part of the proposed project, though they may be documented and preserved for future use; and
 - 6) No significant change or increase in the size or type of project site amenities.
- b. *Housing types.*
- 1) Dormitory pursuant to Section 104.15;
 - 2) Community Workforce Housing Unit pursuant to Section 104.13.
4. All entrances to a hotel or motel unit shall share the same key or means of controlling access so that the hotel or motel room as defined herein is not divisible into separately rentable units.
 5. All hotels or motels must provide a lobby for guests to check in/out.

B. Redevelopment Criteria.

- 1) An existing hotel or motel room may be redeveloped to a unit not exceeding 1,500 square feet consisting of no more than two and one-half (2 1/2) bathrooms, three (3) bedrooms and one (1) other living area, subject to the following rates of redevelopment:
 - a. A one (1) bedroom unit may redevelop as a one (1) bedroom unit, without a reduction in the number of units; and
 - b. A one (1) bedroom unit may redevelop as a two (2) bedroom unit at the rate of 90 percent of the one (1) bedroom units being redeveloped as two (2) bedroom units; and
 - c. A one (1) bedroom unit may redevelop as a three (3) bedroom unit at the rate of 80 percent of the one (1) bedroom units being redeveloped as three (3) bedroom units.
- 2) The number of units reduced and not included in the redevelopment shall be tracked over time and registered with the City as Conditional Redevelopment Units and reflected in the data and analysis of the Comprehensive Plan as it is amended.
- 3) Existing hotel units, which exceed allocated densities, may redevelop provided: (1) the parcel has a stormwater management system which meets the requirements of Article 11, of Chapter 107; (2) the wastewater treatment system meets Best Available Treatment wastewater standards; and (3) the structures meet the shoreline setback criteria as established in Article 4 "Open Water, Surface Waters and Wetlands" of Chapter 106.
- 4) As a condition of redevelopment, the developer and the City shall enter into a Development Agreement, in addition to compliance with all other provisions of the Code.
- 5) Redevelopment shall be clustered to the least environmentally sensitive portion of the property pursuant to Section 106.16 to protect existing habitat on site.
- 6) The City may consider, at a future time, proposed amendments to the LDRs to authorize the construction of Conditional Redevelopment Units. Prior to the consideration of such amendment, the City must demonstrate that: (1) a significant reduction in Hurricane Clearance Time has been achieved for the mandatory evacuation of permanent residents; (2) the Conditional Redevelopment Units have been tracked; and (3) other environmental and land use issues have been addressed.
- 7) Notwithstanding the foregoing, the developer of a hotel or motel containing less than 12 units may convert existing, lawfully established accessory floor area in the hotel or motel

to a second bedroom or third bedroom, as the case may be, to an adjacent existing hotel or motel unit without triggering the requirements of Subsections B.1 or B.4 above; provided, however, that the additional floor area hereunder shall not exceed 425 square feet per unit or 850 square feet in the aggregate per property.

Attachments A: Proposed Redevelopment Site Plan



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 4th, 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 20th 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 11th 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 11th 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 4th, 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 20th 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 11th 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

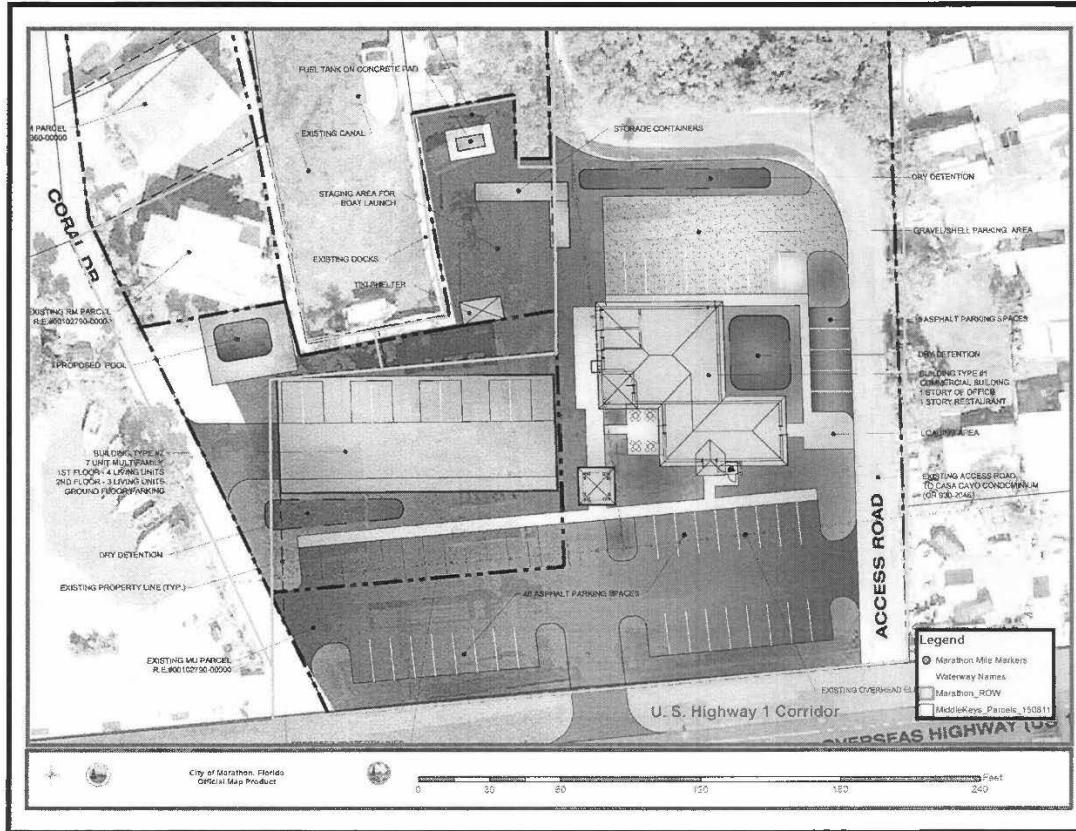
appeal this instrument to the Florida Land and Water Adjudicatory Commission, and that such an appeal stays the effectiveness of this instrument until the appeal is resolved by agreement or order.

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: February 24, 2025

To: Honorable Chair and Planning Commissioners

From: Erin Dafoe, Associate Planner

Agenda Item: Consideration Of A Request By Wharf Marina, Inc. For A Development Agreement And A Conditional Use Permit, Pursuant To Chapter 102, Articles 8 And 13 Of The City Of Marathon Land Development Regulations (LDRs) Entitled “Development Agreement” And “Conditional Use Permits” Respectively, Authorizing The Development Of A Restaurant, Marina, Retail Shop, And Eleven (11) Transient Housing Units At The Property Located At 1622 Overseas Highway, Which Is Legally Described As 9 66 32 Key Vaccas Part Lot 2 & Bay Bottom North Of & Adjacent To Part Government Lot 2 (PT ST RD 4-A), Marathon, Monroe County, Florida, Having Real Estate Number 00102600-000000. Nearest Mile Marker 48.

APPLICANT/ OWNER: Steve Hurley/Wharf Marina, Inc.

AGENT: Steve Hurley

LOCATION: The project site is located at 1622 Overseas Highway at approximately mile marker 48. See Figure 1.

REQUEST: A Development Agreement and Conditional Use Approval for the development of a restaurant, marina, retail shop, and transient housing units.

LOT SIZE:
Total size: Approximately 159,141 square feet
1.10 acres of Environmentally Sensitive

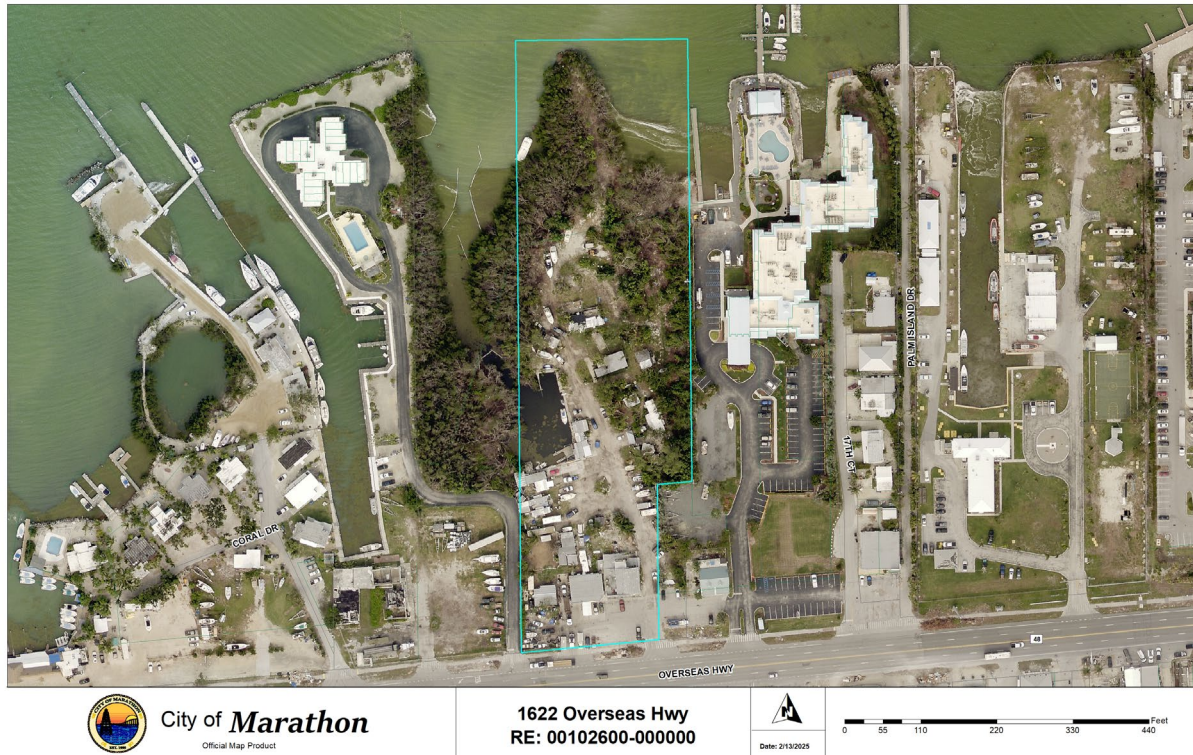
SURROUNDING ZONING AND USES:

	<u>Zoning</u>	<u>Use</u>
North	N/A	Gulf Of Mexico
East	Mixed Use (MU)	Bluegreen Resort and 7 Mile Fly Shop
South	Residential Medium High (R-MH)	Trailerama Park
West	Mixed Use (MU)	Starbucks & Captain Pips

EXISTING CONDITIONS:

The project site consists of developed land that was recently cleared. The existing FLUM is Mixed Use Commercial (MU-C), and the Zoning is Mixed Use (MU). See Figures 2 & 3.

**Figure 1
Project Site**



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

Figure 2
Future Land Use Map



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

Figure 3
Zoning Map

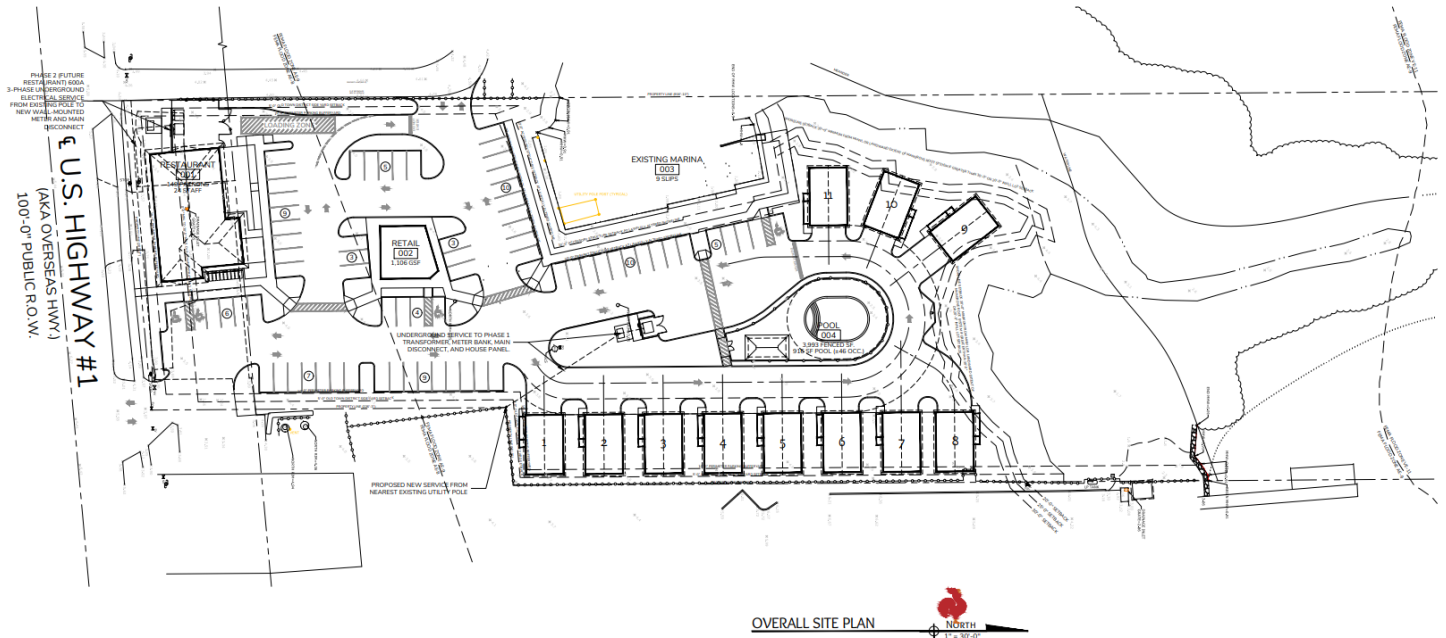


PROPOSED DEVELOPMENT:

The applicant requests the development of a Restaurant, Marina, Retail Space and Transient Housing Units.

Transient Units:	11 Units (Hotel)
Marina:	9 Slips
Commercial:	5,509 square feet (Restaurant)
	1,106 square feet (Retail Space)

**Figure 4
Proposed Site Plan**



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 district is designed to “accommodate a wide variety of commercial and retail activities that will result in the most efficient and attractive use of the City’s historic business district and the US1 Corridor, in an effort to recognize the role of US1 as the City of Marathon’s “Main Street.” The MU district also provides for large-scale retail and commercial business opportunities in other areas, including larger shopping center, specialty shopping centers, individual multi-tenant commercial buildings, automotive services and sales, fast food restaurants, affordable housing uses, transient lodging and other retail establishments that serve the community at large.”

The proposed project consists of the development of a restaurant, marina, retail shop and transient housing units 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.

Table 103.15.2 in the Land Development Regulations establishes constraints on density and intensity allowed in the MU district based on the types of uses proposed. Table 103.15.3 further qualifies the allowed range of intensities based on the intensity of retail use. In its review of this project, staff determined the overall development proposal to be consistent with a “restaurant/bar” use. As such, the following table reflects the proposed project intensity (shown as floor area (FA)) against the maximum intensity and floor area allowed under the constraints imposed on retail, high intensity development. The table also reflects the need for additional floor area that the applicant will have to acquire through the commercial building permit allocation system (CBPAS). The eleven (11) transient units require 1,742 sq ft each for a total of 19,162 sq ft.

Wharf Marina, Inc			
Calculation of Intensity Limits & Requirements for CBPAS Application			
Use 1		Restaurant/Bar	
Intensity		Low	
FAR (See Table 103.15.3)		0.60	
Site Area		159,141 sq ft	
11 Transient Units		19,162	
Limits of FA Based on Intensity		83,987 sq ft	
Requested FA	FA Entitlements	FA Required Through CBPAS	% of FA Limit
6,615	5,115	1,500	7%

The project as proposed meets the basic definition of development in the MU zoning district and will not exceed any intensity constraints imposed on the type proposed.

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

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

The proposed project 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 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 mixed use to the east and west, residential medium high to the south, and Gulf of Mexico to the north.

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 of Marathon.

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;

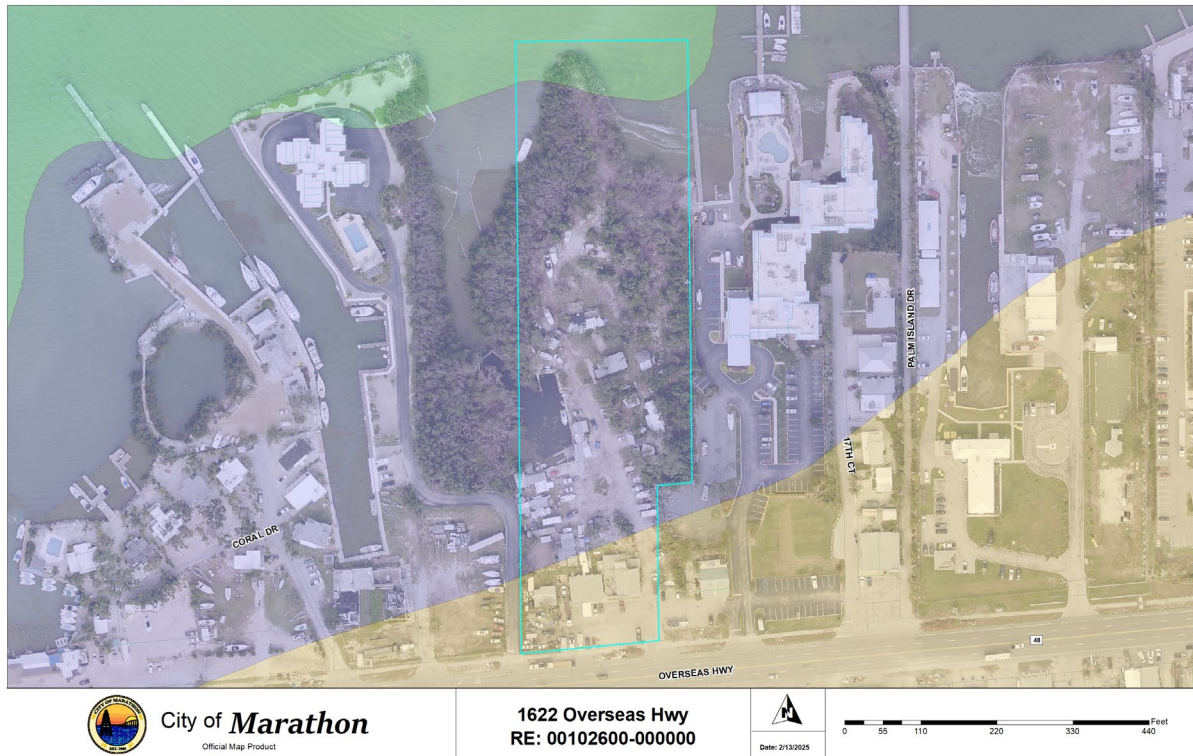
The proposed use is the creation of both commercial and transient use which has not had any known impact to the health, safety, and welfare of the public. Additionally, the creation of the retail and restaurant space are not expected to create any adverse impacts to the health, safety, and welfare of the public as well as the affordable housing units.

The marina will also be required to meet the following criteria as additional protection 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 other natural resources, including shorelines, so as to be contrary to the public interest;
- Will not have a material adverse effect upon the uplands surrounding or necessarily affected by such plan or development;
- Will not have a material adverse effect on the community character or safety, health, and welfare of the general public; or
- Will not be inconsistent with adopted State plans (i.e., manatee protection plans), the City of Marathon Comprehensive Plan, other formally adopted natural resource management plans, or any other City ordinances or regulations.

Plans submitted with the project are suitable for the Conditional Use Approval as they relate to Chapter 107, Article 12, 100 Year Floodplain. Final review of floodplain compliance will occur as part of building permit issuance.

**Figure 5
Flood Zones**



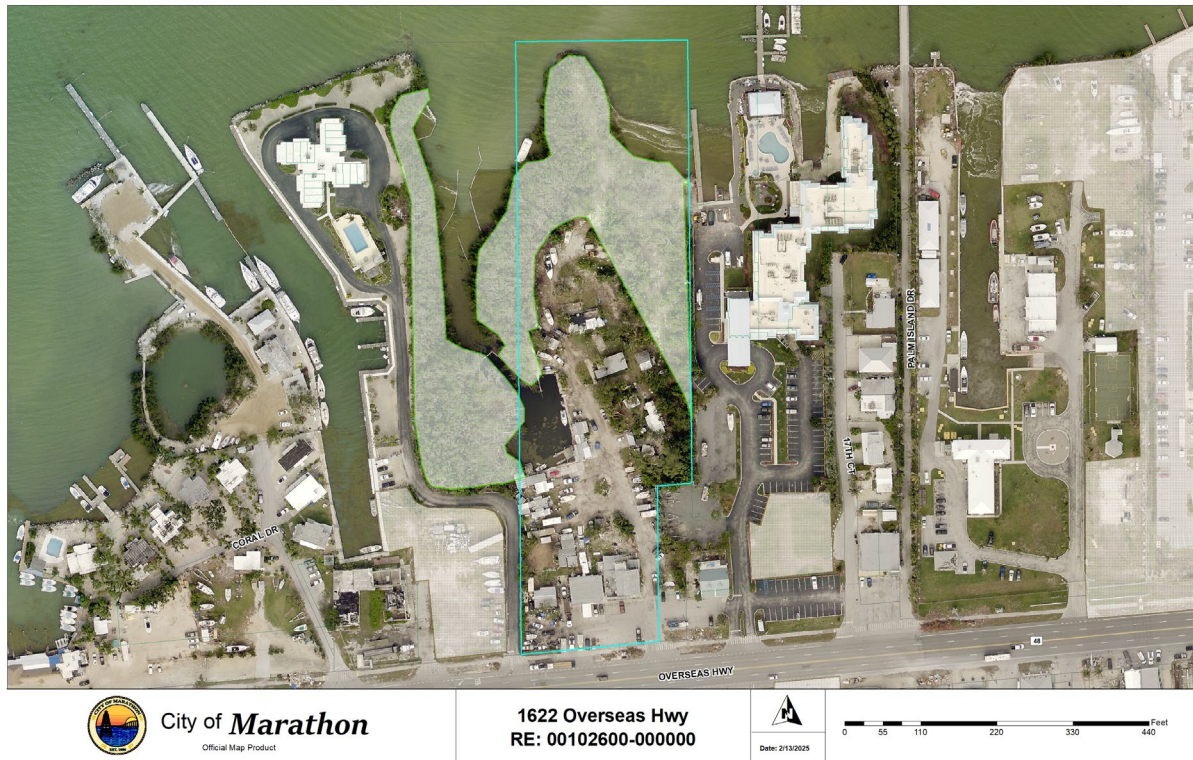
Therefore, with conditions, the request is **in compliance** with the requirements of these sections.

- Marina Operating Permit will be required.

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 existing conditions maps indicate the subject area is designated as previously developed. A site inspection showed the property is comprised of upland, shoreline wetland and submerged lands. Most of the parcel is scarified. Both native and exotic vegetation are scattered predominantly in the center of the parcel. A meandering rock wall generally separated the uplands from the fringing wetlands. Fringing wetlands, including a wide mangrove fringe, are present. 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. 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 6
FEMA-FWS Species Focus Area Map



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.

Conservation easement for mangrove area will be required pursuant to Section 106.02

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 posted on site.
- A final Landscape/mitigation plan must be submitted prior to permit issuance.
- Conservation easement for mangrove area pursuant to Section 106.02.

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 combined uses will create 51 net new daily trips. The submitted study finds that the proposed increase in units 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 Wharf Marina Trip Generation Summary Marathon, Florida								
Land Use	Size	Daily Trips	AM Peak Hour Trips			PM Peak Hour Trips		
			In	Out	Total	In	Out	Total
<i>Existing / Previous Uses</i>								
High-Turnover Sit-Down Restaurant ¹	3,000 SF	355	0	0	0	16	11	27
Automobile Service Center	2,000 SF	33	3	1	4	2	2	4
Mobile Homes	11 DU	77	1	3	4	4	2	6
Marina (Wet Slips)	9 Berths	23	0	1	1	1	1	2
Total		488	4	5	9	23	16	39
<i>Existing / Proposed Uses</i>								
Fine Dining Restaurant	149 Seats	375	2	1	3	28	14	42
Retail	1,020 SF	56	1	1	2	4	3	7
Transient Housing (Hotel)	11 Units	85	3	2	5	3	3	6
Marina (Wet Slips)	9 Berths	23	0	1	1	1	1	2
Total		539	6	5	11	36	21	57
Difference (Proposed - Previous)		51	2	0	2	13	5	18

Ingress and egress to the properties is an existing two (2) driveways on Overseas Hwy. The trip generation analysis of the traffic study shows that with the analyzed units and commercial, the daily trips generated would be 539.

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). The following table shows the parking requirement for the commercial uses on the parcel:

Use	Code Citation	Requirement	Spaces Required
Mixed Use Development (Restaurant)	107.47	1 per 3 seats, plus required stacking spaces, plus 1 per every 2 employees on the largest shift	62
Retail Sales & Service	107.47	3 per 1,000 sf of GFA, plus 1 per employee at largest shift	4
Marina	107.47	1 per 2 wet slips	5
Hotel/Motel	107.47	1 per every 3 employees, plus 1 per guest room, required parking for accessory use	22 based on bedrooms
Total Required			93
Total Provided			93

If additional employees are required, then parking will be reevaluated unless employees are shared or accounted for within existing commercial.

Section 107.52 includes a requirement that one handicapped space be provided for every 25 spaces required. For 93 required spaces, two handicapped spaces are required. Parking space sizes are 9' x 18' for 90-degree parking, and handicapped spaces are 12' x 21' as required by the Code.

The Code also requires bicycle parking to be provided for educational facilities, multifamily dwellings, commercial, institutional, and industrial uses, as well as all developments adjacent to a bike path, at a rate of one space for every ten parking spaces, per Section 107.48. The developer has provided 11 proposed bicycle parking spaces.

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 a new development of a restaurant/bar, marina, retail, and residential housing. New lighting will be constructed for this project. The applicant must provide detailed lighting plans which conform to the letter with the City of Marathon LDR's. The applicant's detailed plans should achieve the net result of no detrimental noise, glare or odors being generated by any of the uses.

Therefore, with the conditions above, 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 engineering drawings to support force main connection along US 1.
- 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.
- Recreation and Open Space: This redevelopment will have a de minimis impact on recreation and open space.
- Roadways: The applicant is developing the site with a higher intensity than was contained within the development; therefore, a traffic study is required to analyze the impact on transportation facilities. Furthermore, final site layout and traffic flow will be dependent on FDOT, City of Marathon Public Works, and City Fire Marshal analysis.
- 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.
- The Conditional Use Development Order will constitute the Certificate of Concurrency for

the project. The determination will be valid for one year.

- The Area 3 WWTP has only the capacity for the existing EDU's assigned to this property. No more capacity will be available until the plant is expanded.

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

Table 107.70.1 establishes project boundary buffer standards applicable to the project. The subject parcel is zoned MU and is bordered to the East and West by property zoned MU. The final landscape plans must be approved by the City Biologist.

Section 107.71 A. requires that parcels with a MU zoning designation provide a Type 1 Streetscape Treatment for all parcels along US 1. The proposed landscape plan meets the minimum requirements. Access driveway to be located closer to the mixed used property but may vary to protect native vegetation.

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.

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 disturbed with exotics; therefore, a twenty percent open space requirement applies. This results in 31,828 square feet of pervious area (including landscape area).

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

9. General compatibility with surrounding properties; and

The project is a development of property that is disturbed with exotics. Adjacent uses include a commercial establishment and other residential dwelling units. The development of the property into a mix of transient units and commercial with marina and restaurant is expected to be fully compatible with these uses. The proposed project represents improvement to the current state of 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 final site plan must show the buildings' height.

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 104.25 Hotels or Motels

The following criteria are applicable to this redevelopment:

An existing hotel or motel may be redeveloped pursuant to Table 103.15.1, subject to the following standards:

A. General Provisions

1. Each hotel or motel shall comply with all mandatory hurricane evacuation requirements set forth by the City for hotel, motel, and other transient uses.
2. Each hotel or motel shall establish and maintain shuttle transport services to airports and tourist attractions individually or in conjunction with other hotel or motel operators.
3. Except as provided in Subsection (a), all hotel or motels shall provide on- or off-site employee housing living space in an amount equal to a minimum of 25 percent (as may be adjusted from time to time by Council policy to reflect economic conditions) of the approved floor area in guest units; and such housing shall be of any of the following types as outlined in (b) below:
 - a. An exception to the requirement for on- or off-site employee housing living space for hotel/motel redevelopment may be recommended by the Planning Director, the Planning Commission, and approved by the City Council as part of a conditional use and/or development agreement when the following criteria are met:
 - 1) No increase in the number of hotel/motel transient units (unit as described in Subsection 104.25A.4. of the LDRs);
 - 2) No use of transferable building rights (TBRs) (as described specifically in Subsection 107.14B. of the LDRs);
 - 3) No significant change (+ or – 10%) in the current project floor area (Floor area as defined in Chapter 110, Article 3 of the LDRs);
 - 4) No significant difference between the current and proposed uses of floor area;
 - 5) No effort to move units off-site through TBRs as part of the proposed project, though they may be documented and preserved for future

- use; and
- 6) No significant change or increase in the size or type of project site amenities.
- b. *Housing types.*
 - 1) Dormitory pursuant to Section 104.15;
 - 2) Community Workforce Housing Unit pursuant to Section 104.13.
- 4. All entrances to a hotel or motel unit shall share the same key or means of controlling access so that the hotel or motel room as defined herein is not divisible into separately rentable units.
- 5. All hotels or motels must provide a lobby for guests to check in/out.

B. *Redevelopment Criteria.*

- 1) An existing hotel or motel room may be redeveloped to a unit not exceeding 1,500 square feet consisting of no more than two and one-half (2 1/2) bathrooms, three (3) bedrooms and one (1) other living area, subject to the following rates of redevelopment:
 - a. A one (1) bedroom unit may redevelop as a one (1) bedroom unit, without a reduction in the number of units; and
 - b. A one (1) bedroom unit may redevelop as a two (2) bedroom unit at the rate of 90 percent of the one (1) bedroom units being redeveloped as two (2) bedroom units; and
 - c. A one (1) bedroom unit may redevelop as a three (3) bedroom unit at the rate of 80 percent of the one (1) bedroom units being redeveloped as three (3) bedroom units.
- 2) The number of units reduced and not included in the redevelopment shall be tracked over time and registered with the City as Conditional Redevelopment Units and reflected in the data and analysis of the Comprehensive Plan as it is amended.
- 3) Existing hotel units, which exceed allocated densities, may redevelop provided: (1) the parcel has a stormwater management system which meets the requirements of Article 11, of Chapter 107; (2) the wastewater treatment system meets Best Available Treatment wastewater standards; and (3) the structures meet the shoreline setback criteria as established in Article 4 "Open Water, Surface Waters and Wetlands" of Chapter 106.
- 4) As a condition of redevelopment, the developer and the City shall enter into a Development Agreement, in addition to compliance with all other provisions of the Code.
- 5) Redevelopment shall be clustered to the least environmentally sensitive portion of the property pursuant to Section 106.16 to protect existing habitat on site.
- 6) The City may consider, at a future time, proposed amendments to the LDRs to authorize the construction of Conditional Redevelopment Units. Prior to the consideration of such amendment, the City must demonstrate that: (1) a significant reduction in Hurricane Clearance Time has been achieved for the mandatory evacuation of permanent residents; (2) the Conditional Redevelopment Units have been tracked; and (3) other environmental and land use issues have been addressed.
- 7) Notwithstanding the foregoing, the developer of a hotel or motel containing less than 12 units may convert existing, lawfully established accessory floor area in the hotel or motel to a second bedroom or third bedroom, as the case may be, to an adjacent existing hotel or motel unit without triggering the requirements of Subsections B.1 or B.4 above;

provided, however, that the additional floor area hereunder shall not exceed 425 square feet per unit or 850 square feet in the aggregate per property.

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 a 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 ensure 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 development consists of the enhancement of property, as well as the development of new affordable 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:

Planning staff recommends that the Planning Commission forward a recommendation of conditional approval of the Restaurant/Bar, Marina, Retail Space and Transient housing units to the City Council. The proposed conditions of approval are listed below.

Conditions of Approval

- 1) The applicant will provide fire protection plans in accordance with fire protection requirements as outlined by the City Fire Marshal;
- 2) The final site plan must show the required parking spaces with prior to permit issuance.
- 3) The final site plan must show the bicycle racks on site prior to permit issuance.
- 4) The applicant will meet all floodplain related requirements as part of the Building Permit process;
- 5) The applicant will provide engineering drawings to support force main connections along US 1.
- 6) Permit site plan must meet 25yr-72hr storm event per storm water code Section 107.88.
- 7) The applicant will obtain the required permits to fully enclose and screen the dumpster in accordance with Section 107.39;
- 8) The applicant will obtain sign permits for any signs erected on the property, as required under the Code; and
- 9) The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.
- 10) 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.
- 11) Staff requires that upon planning review, if the redevelopment is found to have any effect on the Eastern Indigo Snake Habitat, Stock Island Tree Snail and Keys Tree Cactus, then the prescribed protection measures must be undertaken, and the information poster posted on site.
- 12) Conservation easement for mangrove area will be required pursuant to Section 106.02.
- 13) A final Landscape/mitigation plan must be submitted prior to permit issuance.
- 14) A Final Landscape Plan must be submitted showing the proper treatments and buffers, including the appropriate treatment types and trees.
- 15) A Final Site Plan must be submitted showing the buildings meeting the required setbacks, parking locations, and access drives.
- 16) 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.
- 17) 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 ensure consistency with the Comprehensive Plan.

- 18) 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.
- 19) Area 3 WWTP has only the capacity for the existing EDU's assigned to this property. No more capacity will be available until the plant is expanded.
- 20) The applicant must obtain Allocations for transient units.
- 21) *A. General Provisions*
 1. Each hotel or motel shall comply with all mandatory hurricane evacuation requirements set forth by the City for hotel, motel, and other transient uses.
 2. Each hotel or motel shall establish and maintain shuttle transport services to airports and tourist attractions individually or in conjunction with other hotel or motel operators.
 3. Except as provided in Subsection (a), all hotel or motels shall provide on- or off-site employee housing living space in an amount equal to a minimum of 25 percent (as may be adjusted from time to time by Council policy to reflect economic conditions) of the approved floor area in guest units; and such housing shall be of any of the following types as outlined in (b) below:
 - a. An exception to the requirement for on- or off-site employee housing living space for hotel/motel redevelopment may be recommended by the Planning Director, the Planning Commission, and approved by the City Council as part of a conditional use and/or development agreement when the following criteria are met:
 - 1) No increase in the number of hotel/motel transient units (unit as described in Subsection 104.25A.4. of the LDRs);
 - 2) No use of transferable building rights (TBRs) (as described specifically in Subsection 107.14B. of the LDRs);
 - 3) No significant change (+ or – 10%) in the current project floor area (Floor area as defined in Chapter 110, Article 3 of the LDRs);
 - 4) No significant difference between the current and proposed uses of floor area;
 - 5) No effort to move units off-site through TBRs as part of the proposed project, though they may be documented and preserved for future use; and
 - 6) No significant change or increase in the size or type of project site amenities.
 - b. *Housing types.*
 - 1) Dormitory pursuant to Section 104.15;
 - 2) Community Workforce Housing Unit pursuant to Section 104.13.
 4. All entrances to a hotel or motel unit shall share the same key or means of controlling access so that the hotel or motel room as defined herein is not divisible into separately rentable units.
 5. All hotels or motels must provide a lobby for guests to check in/out.

B. Redevelopment Criteria.

- 1) An existing hotel or motel room may be redeveloped to a unit not exceeding 1,500 square feet consisting of no more than two and one-half (2 1/2) bathrooms, three (3) bedrooms and one (1) other living area, subject to the following rates of redevelopment:
 - a. A one (1) bedroom unit may redevelop as a one (1) bedroom unit, without a reduction in the number of units; and
 - b. A one (1) bedroom unit may redevelop as a two (2) bedroom unit at the rate of 90 percent of the one (1) bedroom units being redeveloped as two (2) bedroom units; and
 - c. A one (1) bedroom unit may redevelop as a three (3) bedroom unit at the rate of 80 percent of the one (1) bedroom units being redeveloped as three (3) bedroom units.
- 2) The number of units reduced and not included in the redevelopment shall be tracked over time and registered with the City as Conditional Redevelopment Units and reflected in the data and analysis of the Comprehensive Plan as it is amended.
- 3) Existing hotel units, which exceed allocated densities, may redevelop provided: (1) the parcel has a stormwater management system which meets the requirements of Article 11, of Chapter 107; (2) the wastewater treatment system meets Best Available Treatment wastewater standards; and (3) the structures meet the shoreline setback criteria as established in Article 4 "Open Water, Surface Waters and Wetlands" of Chapter 106.
- 4) As a condition of redevelopment, the developer and the City shall enter into a Development Agreement, in addition to compliance with all other provisions of the Code.
- 5) Redevelopment shall be clustered to the least environmentally sensitive portion of the property pursuant to Section 106.16 to protect existing habitat on site.
- 6) The City may consider, at a future time, proposed amendments to the LDRs to authorize the construction of Conditional Redevelopment Units. Prior to the consideration of such amendment, the City must demonstrate that: (1) a significant reduction in Hurricane Clearance Time has been achieved for the mandatory evacuation of permanent residents; (2) the Conditional Redevelopment Units have been tracked; and (3) other environmental and land use issues have been addressed.
- 7) Notwithstanding the foregoing, the developer of a hotel or motel containing less than 12 units may convert existing, lawfully established accessory floor area in the hotel or motel to a second bedroom or third bedroom, as the case may be, to an adjacent existing hotel or motel unit without triggering the requirements of Subsections B.1 or B.4 above; provided, however, that the additional floor area hereunder shall not exceed 425 square feet per unit or 850 square feet in the aggregate per property.

