



**City of Marathon Planning Commission**  
**Monday April 21, 2025**  
**9805 Overseas Hwy**  
**City Hall Council Chambers**  
**5:30 PM**

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

**7. Items For Public Hearing**

**Item 1.** An Ordinance Of The City Of Marathon, Florida; Amending Chapter 15 Fire Prevention Article 1 In General, Amending Section 15-6 Entitled Chickees And Tikis, Amending Section 15-7 Entitled Penalty, Amending Sections 15-8 Through 15-26 Entitled Reserved; Of The City Of Marathon Code Of Ordinances; Amending Chapter 110 Definitions Article 3 Entitled Defined Terms; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The Department Of Commerce After Final Adoption By The City Council; And Providing For An Effective Date.

**Item 2.** An Ordinance Of The City Of Marathon, Florida, Amending Chapter 104, Article 1, Section 104.51.1 "Single-Family Dwellings (7 Bedrooms Or More)" As Defined Therein; Amending Chapter 110 Article 3 Entitled Defined Terms; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The Department Of Commerce After Final Adoption By The City Council; And Providing For An Effective Date.

**Item 3.** Consideration Of A Request By Marathon LLC For An Amendment To A Conditional Use Permit, Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (“The Code”) Entitled “Conditional Use Permits”, Authorizing The Development Of A Climate Controlled Storage Facility And Twenty-Four (24) Single Family Residential Units Consisting Of Five (5) Parcels Located At 765 107<sup>th</sup> Street Ocean; Which Is Legally Described As Township 66 Range 33 Key Vaccas Part Government Lot 1 And Part Government Lot 2 Part Parcel 3 And Adjacent Bay Bottom South Of And Adjacent Part Government Lot 1 And Lots 1, 2, 3, & 4 Of Seaglass Flats A Plat Of Lands Located In A Part Of Government Lot 1 Section 6 Township 66S Range 33E On Key Vaca City Of Marathon As Recorded In Plat Book And Page 7-97, Monroe County, Florida, Having Real Estate Numbers 00104260-000000, 00104251-000100, 00104251-000200, 00104251-000300 And 00104251-000400. Nearest Mile Marker 53.



**City of Marathon Planning Commission  
Monday February 24, 2025  
9805 Overseas Hwy  
City Hall Council Chambers**

**MINUTES**

Royse called the meeting of the Planning Commission to order on Monday February 24, 2025, at 5:30 pm.

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

The Pledge of Allegiance was recited.

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

Brian Shea introduced our newest Planning Commissioner Hiram Machado.

Royse tabled the restructuring until the April meeting as it was not on the agenda.

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

The quasi-judicial statement was read into the record.

**Items 1 And 2 were read into the record.** 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.

Dafoe presented the item with the use of visual aids.

Royse asked for clarification on the ordinance being applied to the item.

Cinque and Shea discussed the ingress, egress, easement that Casa Cayo uses, traffic, and fire access.

George questioned the parcels lot lines and easements.

Steve Hurley spoke on behalf of the applicant to answer some questions. He spoke on the original easement for water and electric to Casa Cayo, and the new easement which was moved to allow Casa Cayo to connect to the city sewer.

Hurley went on to explain that the easement is there and has not changed. DOT requires 10' each way for access.

Hurley presented the item on behalf of the developer.

George asked about density and residential medium zone of one building, and the zoning for the new building. A new survey will be done for the lot line adjustment.

Royse asked about the lobby mentioned in the report, which will be in the existing office.

Machado asked about boat trailer parking. The property rents boats, but a trailer would fit under the unit.

Cinque asked about the increased use of the wastewater system. Hurley stated that they are aware that there is not enough capacity now at the Area 3 plant so they can only build to what is currently available, as Phase 1, per Dan Saus, Utilities Director. Once Area 3 is capable of the increased amount Phase 2 can begin, but there are no promises regarding the increase in capacity.

Royse opened the meeting to public comments.

1. Paul Kraus spoke against the item regarding traffic, safety, the need for a sidewalk, and the 'incomplete' plans for the project.

Royse moved to approve Item 1, the conditional use. Machado seconded. The roll was called. The motion passed 4-1, Cinque dissenting.

Royse moved to approve Item 2, the development agreement. Machado seconded. The roll was called. The motion passed 4-1, Cinque dissenting.

**Items 3 And 4 were read into the record.** 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.

Dafoe presented the item with the use of visual aids.

Hurley presented the item on behalf of the developer.

There was discussion on work force housing, lobby access, size of the units, and boat trailer parking.

The meeting was opened to public speakers:

1. Rich Tompkins directed questions to the commission regarding the access entry onto the easement to see if a swing gate could be installed to keep traffic to a minimum, and he also inquired about aqua lodges on the property.

Hurley responded to the swing gate installation question with an ‘emergency use only’ sign could be installed.

2. Paul Kraus commented on the sight line, dumpster location, and the need for a sidewalk.

Hurley spoke with his client who agreed to add a sidewalk for pedestrians.

Shea clarified that with the proposed units and commercial square footage allowed is 83,987, but that the applicant was proposing only 7% of this floor area.

A discussion ensued regarding density of the project, transferable building rights, live-aboards, EDUs for Phase 1, cross-over services to work the properties, conditions added to a conditional use permit not getting enforced, sprinkling the units and restaurant.

Royse moved to approve Item 1 (conditional use) with the additional condition that a sidewalk be installed for Casa Cayo pedestrians and an office for the units be added to the site. George seconded. The roll was called. The motion passed 4-1, Cinque dissenting.

After a brief discussion, Royse moved to approve Item 2 (development agreement) with the additional condition that a sidewalk be installed for Casa Cayo pedestrians and an office for the units be added to the site. George seconded. The roll was called. The motion passed 4-1, Cinque dissenting.

Motion and second to adjourn at 7:03pm.

ATTEST:

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MaryAnn Royse-Planning Commissioner Chair

ATTEST:

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Lorie Mullins-Admin Assistant  
Planning Department

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

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

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

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



## PLANNING COMMISSION AGENDA STATEMENT

**Meeting Date:** April 21, 2025  
**To:** Planning Commissioners  
**From:** Brian Shea, Planning Director

**Agenda Item:** An Ordinance Of The City Of Marathon, Florida; Amending Chapter 15 Fire Prevention Article 1 In General, Amending Section 15-6 Entitled Chickees And Tikis, Amending Section 15-7 Entitled Penalty, Amending Sections 15-8 Through 15-26 Entitled Reserved; Of The City Of Marathon Code Of Ordinances; Amending Chapter 110 Definitions Article 3 Entitled Defined Terms; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The Department Of Commerce After Final Adoption By The City Council; And Providing For An Effective Date.

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### **RECOMMENDATION:**

Staff recommends APPROVAL.

**APPLICANT:** City of Marathon

### **REQUEST:**

The proposed ordinance amends the Fire Prevention code in the code of ordinances, and the definitions section in the land development regulations.

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

The purpose of the amendment is to codify permit conditions standards and avoid confusion between tikis and chickees and their permit requirements.

### **AUTHORITY**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 15-29 entitled “Duty To Investigate And Make Recommendations” establishes that it shall be the duty of the Fire Chief or designee to investigate and to recommend to the City Council such additional ordinances or amendments to existing ordinances as he may deem necessary for safeguarding life and property against fire. Additionally, Section 15-28 states that it shall be the duty of the Fire Chief or designee to enforce all laws and ordinances of the City, covering the prevention of fires. The 5’ setback for tiki and chickee structures was set by a previous fire marshal as a policy. This has been consistently applied to the structures obtaining permits as permit conditions. The adoption of the ordinance codifies the policy that has been in place.

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

The Comprehensive Plan is silent on the issue of fire prevention as it relates to the powers and duties of the Fire Marsal and Fire Chief.

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

The proposed text amendments further the purposes of the LDRs and other City Codes, regulations and actions designed to implement the Comprehensive Plan by code consistency. It provides clarity that both tikis and chickees must meet the same fire requirements. It allows for consistent definition, including the definition of a chickee as previously defined in the floodplain management LDR section. It also allows for smart development that by preventing the spread of fire risk, reduces the potential draw on City services to combat fires.

**CONCLUSION:**

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

**RECOMMENDATION:**

Staff recommends APPROVAL.

**Sponsored By:** Muro  
**Public Hearing Dates:** April 21, 2025  
May 13, 2025  
June 10, 2025  
**Enactment Date:** June 10, 2025

**CITY OF MARATHON, FLORIDA  
ORDINANCE 2025-XX**

**AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA; AMENDING CHAPTER 15 FIRE PREVENTION ARTICLE 1 IN GENERAL, AMENDING SECTION 15-6 ENTITLED CHICKEES AND TIKIS, AMENDING SECTION 15-7 ENTITLED PENALTY, AMENDING SECTIONS 15-8 THROUGH 15-26 ENTITLED RESERVED; OF THE CITY OF MARATHON CODE OF ORDINANCES; AMENDING CHAPTER 110 DEFINITIONS ARTICLE 3 ENTITLED DEFINED TERMS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE DEPARTMENT OF COMMERCE AFTER FINAL ADOPTION BY THE CITY COUNCIL; AND PROVIDING FOR AN EFFECTIVE DATE.**

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

**WHEREAS**, the City of Marathon is located within an Area of Critical State Concern, pursuant to Sections 380.05 and 380.0552, *Florida Statutes*; and

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

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

**WHEREAS**, it is the intent of the City Council to safeguard both life and property against fire; and

**WHEREAS**, The City Council intends to adopt the language and further the policies of the Comprehensive Plan.

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

~~Strikethrough~~ = deletion

**Bold underline** = addition

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

**SECTION 2.** Chapter 15, Article 11, and Chapter 110, Article 3 are hereby amended and adopted as attached in Exhibit A.

**SECTION 3.** Any provisions of the Code of Ordinances of the City of Marathon, Florida or Ordinances or parts of Ordinances that are in conflict with the provisions of this Ordinance are hereby repealed.

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

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

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

**ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA,  
THIS 10TH DAY OF JUNE, 2025.**

**THE CITY OF MARATHON, FLORIDA**

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**Lynn Landry, Mayor**

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

**ATTEST:**

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Diane Clavier, City Clerk

(City Seal)

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

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Steven Williams, City Attorney

## Chapter 15 "Fire Prevention" Article 1 "In General"

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### Sec 15-6 Chickees And Tikis

- (a) All Chickees and Tikis shall be setback five (5) feet from any improved structure. In measuring setbacks, the horizontal distance between the dripline and the further most projection of the improved structure shall be used.
- (b) All Chickees and Tikis must be constructed with a fire-retardant coating:
  - a. The fire-retardant coatings such as paints and other surface coatings used to reduce certain burning characteristics of building materials such as exterior and interior combustible finish materials for a minimum of two years must be certified on a form as approved by the Fire Chief.
  - b. Fire-retardant coatings shall possess the desired degree of permanency and shall be maintained so as to retain the effectiveness of the treatment under the service conditions encountered in actual use. (The two years permanency and endurance requirement shall not be allowed to expire.)
  - c. Fire-retardant coatings shall remain stable and adhere to the material under all atmospheric conditions to which the material is exposed.
  - d. Fire-retardant coatings shall be applied in accordance with the manufacturer's directions and the application shall be certified by the applicator as being in conformance with the manufacturer's directions for application.
  - e. The fire-retardant coating shall not be coated over with any material unless both the fire-retardant coating and the overcoat have been tested as a system and are found to meet the requirements of a fire-retardant coating.
  - f. Fire-retardant coatings subjected to sustained humidity and exposure to the weather shall be tested by NFPA 255, ASTM E 84, UL 723 or ASTM D 2898, whichever is applicable.

### Sec 15-~~7~~6 Penalty

- (a) The City may enforce the provisions of this chapter by any lawful means including, but not limited to, in accordance with Section 1-7 of the Marathon Code, Chapter 10 of the Marathon Code, or Chapter 109, Article II of the Land Development Regulations.

### Secs 15-~~87~~--15-26 (Reserved)

## Chapter 110 "Definitions" Article 3 "Defined terms":

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Chickee. Chickees are constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. The term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.

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Tiki. The term "tiki" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that may incorporate any electrical, plumbing, or other non-wood features.

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# Business Impact Estimate Form

This Business Impact Estimate Form is provided to document compliance with and exemption from the requirements of Sec. 166.041(4), Fla. Stat. If one or more boxes are checked below under “Applicable Exemptions”, this indicates that the City of Marathon has determined that Sec. 166.041(4), Fla. Stat., does not apply to the proposed ordinance and that a business impact estimate is not required by law. If no exemption is identified, a business impact estimate required by Sec. 166.041(4), Fla. Stat. will be provided in the “Business Impact Estimate” section below. In addition, even if one or more exemptions are identified, the City of Marathon may nevertheless choose to provide information concerning the proposed ordinance in the “Business Impact Estimate” section below. This Business Impact Estimate Form may be revised following its initial posting.

## Proposed ordinance’s title/reference:

An Ordinance Of The City Of Marathon, Florida; Amending Chapter 15 Fire Prevention Article 1 In General, Amending Section 15-6 Entitled Chickees And Tikis, Amending Section 15-7 Entitled Penalty, Amending Sections 15-8 Through 15-26 Entitled Reserved; Of The City Of Marathon Code Of Ordinances; Amending Chapter 110 Definitions Article 3 Entitled Defined Terms; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The Department Of Commerce After Final Adoption By The City Council; And Providing For An Effective Date.

## Applicable Exemptions:

- ☐ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant, or other financial assistance accepted by the municipal government;
- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The ordinance relates to procurement; or
- ☐ The proposed ordinance is enacted to implement the following:
  - ☐ Development orders and development permits, as those terms are defined in s.163.3164, and, development agreements, as authorized by the Florida Local Government Development Agreement Act under ss. 163.3220-163.3243;
  - ☐ Comprehensive Plan Amendments and land development regulation amendments initiated by an application by a private party other than the municipality;
  - ☐ Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;

- ☐ Section 553.73, Florida Statutes, relating to the Florida Building Code; or
- ☐ Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

**Business Impact Estimate:**

**The City of Marathon hereby publishes the following information:**

- 1. A summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):**

Section 15-29 entitled "Duty To Investigate And Make Recommendations" establishes that it shall be the duty of the Fire Chief or designee to investigate and to recommend to the City Council such additional ordinances or amendments to existing ordinances as he may deem necessary for safeguarding life and property against fire. Additionally, Section 15-28 states that it shall be the duty of the Fire Chief or designee to enforce all laws and ordinances of the City, covering the prevention of fires. The 5' setback for tiki and chickee structures was set by a previous fire marshal as a policy. This has been consistently applied to the structures obtaining permits as permit conditions. The adoption of the ordinance codifies the policy that has been in place.

- 2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the municipality, including the following, if any:**

- (a) An estimate of direct compliance costs that businesses may reasonably incur if the ordinance is enacted:**

As this is codifying existing policy and forms, no new compliance costs are expected.

- (b) Identification of any new charge or fee on businesses subject to the proposed ordinance, or for which businesses will be financially responsible:**

There is no new charge or fee associated with this ordinance as it is codifying existing policy and forms.

- (c) An estimate of the municipality's regulatory costs, including an estimate of revenues from any new charges or fees that will be imposed on businesses to cover such costs:**

No additional regulatory costs.

**3. A good faith estimate of the number of businesses likely to be impacted by the ordinance:**

Five specialty tiki contractors, and any registered general contractor.

**4. Additional information the governing body determines may be useful (if any):**

The proposed amendments further the purposes of the LDRs and other City Codes, regulations and actions designed to implement the Comprehensive Plan by code consistency. It provides clarity that both tikis and chickees must meet the same fire requirements. It allows for consistent definition, including the definition of a chickee as previously defined in the floodplain management LDR section. It also allows for smart development that by preventing the spread of fire risk, reduces the potential draw on City services to combat fires.

**Note:** *The City's provision of information in the Business Impact Estimate section above, notwithstanding an applicable exemption, shall not constitute a waiver of the exemption or an admission that a business impact estimate is required by law for the proposed ordinance. The City's failure to check one or more exemptions below shall not constitute a waiver of the omitted exemption or an admission that the omitted exemption does not apply to the proposed ordinance under Sec. 166.041(4), Fla. Stat., Sec. 166.0411, Fla. Stat., or any other relevant provision of law.*



## **PLANNING COMMISSION AGENDA STATEMENT**

**Meeting Date:** April 21, 2025

**To:** Planning Commission

**From:** Brian Shea, Planning Director

**Agenda Item:** An Ordinance Of The City Of Marathon, Florida, Amending Chapter 104, Article 1, Section 104.51.1 “Single-Family Dwellings (7 Bedrooms Or More)” As Defined Therein; Amending Chapter 110 Article 3 Entitled Defined Terms; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The Department Of Commerce After Final Adoption By The City Council; And Providing For An Effective Date.

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### **RECOMMENDATION:**

Staff recommends APPROVAL.

**APPLICANT:** City of Marathon

### **REQUEST:**

Single-family residential structures which exceed six (6) bedrooms in number have a greater impact on the community than a more typical residence of six (6) or less bedrooms. Therefore, the City wishes to amend the permission of such structures in the wider context of a Conditional Use Permit review and approval. Particularly, the City needs to understand the greater impacts of the size of the property in question, the parking requirements, the traffic impacts, and the impacts on infrastructure such as water, sewer, electricity, and solid waste. We also need to understand the impacts of larger residential development and the larger number of individuals likely to reside there, on the community character of surrounding neighborhoods.

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

To modify the Land Development Regulations that require that proposed residential development which has more than six (6) bedrooms must be approved through a Conditional Use Permit review and approval.

Particularly, the City is requesting to change, Chapter 104, Article 1, Section 104.51.1 “Single-Family Dwellings (7 Bedrooms or More)” and to change Chapter 110, “Defined Terms,” to modify or add necessary terms related to a change requiring Conditional Use permit approval.

### **AUTHORITY**

**Section 102.26. Planning Commission Recommendation.**

- A. *Authority:* The PC shall consider a proposed text amendment at the request of the Council.
- B. *Review Criteria:* The PC shall review such proposed amendment, based upon the criteria listed below:
  - 1. The need and justification for the change;
  - 2. The consistency of the proposed amendment with the Comprehensive Plan; and
  - 3. Whether the proposed change shall further the purposes of the LDRs and other City Codes, regulations and actions designed to implement the Comprehensive Plan.
- C. *Findings:* The PC shall make a finding of whether the proposed amendment is consistent with the Comprehensive Plan and a recommendation shall be prepared and forwarded to the Council, indicating if the proposed amendment should be:
  - 1. Approved as proposed;
  - 2. Approved with amendments proposed by the PC; or
  - 3. Denied

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

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

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

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

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

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

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

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

Council approved a moratorium to address the changes needed to this ordinance based upon previous applications being submitted that did not meet the community character criteria as part of the conditional use review. Staff was given some direction to create a framework for this criteria.

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

The proposed amendment does not change any of the basic purposes of the Comprehensive Plan. This proposal aims to provide more detail to the requirements for proposed developments which request single-family residences of greater than six (6) bedrooms.

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

The proposed regulations do further the basic goals and premises outlined in the introduction to the City's Comprehensive Plan as follows:

“With the knowledge that the City needs redevelopment and new development to provide the necessary improvements to guarantee the residents of the City a clean, healthy environment and a sound economy in which to live and enjoy their families, it is the desire and intent of the City through the GOALS, OBJECTIVES AND POLICIES OF THE ADOPTED COMPREHENSIVE PLAN AND LAND DEVELOPMENT REGULATIONS IMPLEMENTING THE PLAN TO PROTECT OUR CHARACTER, ENVIRONMENT AND VIABILITY THROUGH:

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

Additionally, language is being added that references back to sections that pertain to wastewater flows and assessments ensuring compliance, without removing the ability to enforce existing standards. Excerpts of the appropriate code sections are provided below.

**CONCLUSION:**

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

**RECOMMENDATION:**

Staff recommends APPROVAL.

---

**Table 103.15.1**

Uses by Zoning District

ZONING DISTRICT	RM	RM-1	RM-2	RH
Single-family dwellings (6 Bedrooms or less)	P	P	P	P
Single-family dwellings (7 Bedrooms or more)	C	C	C	C

**Table 103.15.2**

DENSITY, INTENSITY AND DIMENSIONS FOR ZONING DISTRICTS

	RH	RM	RM-1	RM-2
Market Rate (maximum)	8	5	4	5
<b>Min lot area per unit (square feet)</b>				
Market Rate	5,445	8,712	10,000	8,712

**Sec 34-31 Right To Refuse Service**

The City may refuse to extend wastewater service to any person on the basis of a use detrimental to the system, lack of payment of required fees or charges, or for any other reason which, in the judgment of the City, applying sound engineering principles, will cause the proposed service extension not to be of benefit to the City. No payment of costs, submittal of an application or other act to receive wastewater service will guarantee that such service will be made available.

**Sec 34-41 Extension of Wastewater Facilities on Request**

- (a) An owner seeking to obtain a commitment for wastewater service from the City for new development or re-development of an existing property that may require the installation or extension of wastewater facilities must identify system capacity needs for, or must have previously identified the number of EDUs corresponding to, the anticipated requirements of the project. The owner must complete and provide the City sufficient information for the City to determine whether extension of wastewater facilities to the new development or re-development is practicable and in the City's best interest.

**Sponsored by: Garrett**  
**Public Hearing Dates:** April 21, 2025  
May 13, 2025  
June 10, 2025  
**Enactment Date:** June 10, 2025

**CITY OF MARATHON, FLORIDA  
ORDINANCE 2025-XXX**

**AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING CHAPTER 104, ARTICLE 1, SECTION 104.51.1 “SINGLE-FAMILY DWELLINGS (7 BEDROOMS OR MORE)” AS DEFINED THEREIN; AMENDING CHAPTER 110 ARTICLE 3 ENTITLED DEFINED TERMS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE DEPARTMENT OF COMMERCE AFTER FINAL ADOPTION BY THE CITY COUNCIL; AND PROVIDING FOR AN EFFECTIVE DATE.**

---

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

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

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

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

**WHEREAS**, the purpose of the proposed Ordinance is to manage growth and development in residential neighborhoods and zoning categories when large single family residential development are proposed (greater than six (6) bedrooms), thus requiring a Conditional Use Permit review and approval,

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

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

**SECTION 2.** Amend Chapter 104, Article 1, “General Provisions,” to amend Section 104.51.1, “Single-family dwellings (7 Bedrooms or more) as shown in Exhibit A

**SECTION 3.** Chapter 110 “Definitions” Article 3 Entitled “Defined Terms” as shown in Exhibit B.

**SECTION 4.** The Provisions of the Code of Ordinances, City of Marathon, Florida and all Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

**SECTION 5.** The provisions of this Ordinance are declared to be severable, and if any sentence, section, clause or phrase of this Ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sentences, sections, clauses or phrases of the Ordinance, but they shall remain in effect it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

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

**SECTION 7.** The provisions of this Ordinance constitute a “land development regulation” as state law defines that term. Accordingly, the City Clerk is authorized and directed to forward a copy of this Ordinance to the State Department of Commerce for approval pursuant to Sections 380.05(6) and (11), Florida Statutes.

**SECTION 11.** This Ordinance shall be effective immediately upon approval by the State Department of Commerce pursuant to Chapter 380, Florida Statutes.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 10<sup>th</sup> DAY OF JUNE, 2025.**

**THE CITY OF MARATHON, FLORIDA**

---

**Lynn Landry, Mayor**

AYES:

NOES:

ABSENT:

ABSTAIN:

**ATTEST:**

---

Diane Clavier, City Clerk

(City Seal)

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

---

Steve Williams, City Attorney

DRAFT

## ARTICLE 110-3 DEFINED TERMS

\\

Bedroom; A room generally intended for sleeping in, typically for one or two individuals and perhaps a small child. A bedroom typically is defined on the basis of the following conditions, but may vary:

1. Doors: Typically contains at least one door for entry, though may not have a door in open living plans
2. Minimum square footage: 60 to 70 square feet.
3. Minimum horizontal footage: A minimum of at least seven (7) feet in any horizontal direction.
4. Two means of egress: There have to be two ways out of a bedroom.
5. Minimum ceiling height: At least half of the bedroom ceiling has to be at least seven (7) feet tall and meet the Florida Building Code (FBC).
6. Minimum window size: The window opening must be a minimum size, usually five and seven-tenths (5.7) square feet and must meet the Florida Building Code (FBC).
7. A heating/cooling element.
8. May have a closet, an associated bathroom, small refrigerator, and/or a microwave.

For the sake of calculating the number of bedrooms, the City may count an office, den, game/recreation room, alcove, or similar room or semi-enclosed space as a bedroom dependent on the apparent purpose and use for the space. [The City shall require a deed restriction documenting any additional office, den, game/recreation room, alcove, or similar room or semi-enclosed space intended to not be counted in the overall bedroom count.](#)

\*\*\*

Dwelling.Unit.(Single\_family.residence); A single unit providing complete and independent living facilities for one (1) or more persons including permanent provisions for living, sleeping, cooking and sanitation. The term is applicable to both permanent or rental residential development and living.

Dwelling units with seven (7) or more bedrooms are subject to Conditional Use Permit review and approval (see Chapter 104, Article 13). Dwelling units with seven (7) or more bedrooms shall not be set up in the fashion of a hotel or motel, so defined herein, to

provide common area facilities for reservations, cleaning services, site management, and reception. [The City shall require a deed restriction documenting the approved number of bedrooms, and any office, den, game/recreation room, alcove, or similar room or semi-enclosed space.](#)

For the purposes of calculation within the Building Permit Allocation System (BPAS), any Dwelling Unit or Single-family Residence which supports more than one complete kitchen shall be considered a Duplex (at least), must meet the minimum residential density requirements, and shall be required to obtain one (1) additional Residential allocation for each additional kitchen.

[Sec 104.51.1] Single-Family Dwellings (7 Bedrooms Or More)

The approval of Single-family dwellings (Seven (7) Bedrooms or more) requires a Conditional Use Permit review and approval pursuant to Chapter 102, Article 13 of the Land Development Regulations.

Single-family residential structures which include seven (7) or more bedrooms in number have a greater impact on the community than a more typical residence of six (6) bedrooms or less. Therefore, the City requires that the permission of such structures be considered in the wider context of a Conditional Use Permit. Particularly, the City must understand at a minimum, the greater impacts of the project related to the size of the property in question, the parking requirements, the traffic impacts, and the impacts on infrastructure such as water, sewer, electricity, and solid waste. However, as noted in the application submittal requirements below, other considerations and additional review areas may be considered and additional information may be requested.

SPECIFIC APPLICATION REQUIREMENTS  
CONDITIONAL USE PERMITS

These requirements are to be met in addition to those requirements of Chapter 102, Article 13, Section 102.75. The Planning Department may require additional drawings, specifications or information in order to complete the review of the application.

1. Wastewater.Flow.Calculations;

- a. Residences with six (6) ~~six~~ bedrooms or less will be assumed to equate to one (1) Equivalent Dwelling Unit (EDU) at 167 gallons per day. System development and connection charges, as well as monthly base and flow charges will accrue and be billed as a single-family residence. [Nothing in this section shall preclude the City's ability to review EDU assessments and extensions of wastewater facilities requests for residences of six \(6\) bedrooms or less under section 34-41. Nor shall the City's right to refuse service under Section 34-31 be abrogated.](#)
- b. Residences with seven (7) bedrooms or more will be assessed based on a calculation of average wastewater flows developed and provided by a qualified wastewater engineer [or architect, in compliance with Florida Department of Health \(FDOH\) requirements as set forth in Rule Chapter 62-6 of the Florida Administrative Code.](#) Such wastewater flow will be calculated into the one-time System Development and Connection charges and be billed accordingly. [Nothing in this section shall preclude the City's ability to review EDU assessments and extensions of wastewater facilities requests for](#)

residences of seven (7) bedrooms or more under section 34-41. Nor shall the City's right to refuse service under Section 34-31 be abrogated.

2. Parking.space.needs.analysis; The City will require a minimum of one (1) parking space per bedroom unless otherwise justified and validated by the Conditional Use Permit applicant.
3. A Traffic Study prepared by a licensed traffic engineer.
4. Community.Character.Criteria.(Use).
  - a. An applicant who wishes to have a residence with seven (7) bedrooms or more will be reviewed based on a strict mathematical averaging of the actual bedroom counts of all properties within 500 feet of the property on the same street and within 250 feet on parallel streets. The distances noted (e.g., 500 feet and 250 feet) are flexible based on the actual location on the street of the property subject to conditional use and the meander of that street.
  - b. Alternatively, an applicant who wishes to have a residence with seven (7) bedrooms or more will be reviewed based on a strict mathematical averaging of the actual bedroom counts of all properties within the platted subdivision.
  - c. The bedroom count allowed shall be proportional to the community character average plus [one (1) bedroom, two (2) bedrooms, or three (3) bedrooms]. For the purposes of bedroom averages, the number shall always be rounded [up to a whole number, down to a whole number, or to the nearest whole number].
- ① Community.Character.Criteria.(Zoning);
  - a. A site seeking conditional use approval for a residence with seven (7) bedrooms or more must have an upland area equivalent to [one and a half times (1.5x), two times (2x), two and a half times (2.5x), three times (3x)] the density of a market rate unit for the zoning of that site as established in Table 103.15.2.
  - b. For the purposes of this calculation, if multiple residences are on site, those densities will be subtracted from the overall upland area prior to calculations. If multiple residences on a site seek conditional use approval, the calculation in 5.a. above will be assessed for each unit.
  - c. A deed restriction must be filed documenting the square footage of density being extinguished on site as part of the Conditional Use approval.

# Business Impact Estimate Form

This Business Impact Estimate Form is provided to document compliance with and exemption from the requirements of Sec. 166.041(4), Fla. Stat. If one or more boxes are checked below under “Applicable Exemptions”, this indicates that the City of Marathon has determined that Sec. 166.041(4), Fla. Stat., does not apply to the proposed ordinance and that a business impact estimate is not required by law. If no exemption is identified, a business impact estimate required by Sec. 166.041(4), Fla. Stat. will be provided in the “Business Impact Estimate” section below. In addition, even if one or more exemptions are identified, the City of Marathon may nevertheless choose to provide information concerning the proposed ordinance in the “Business Impact Estimate” section below. This Business Impact Estimate Form may be revised following its initial posting.

## Proposed ordinance’s title/reference:

An Ordinance Of The City Of Marathon, Florida, Amending Chapter 104, Article 1, Section 104.51.1 “Single-Family Dwellings (7 Bedrooms Or More)” As Defined Therein; Amending Chapter 110 Article 3 Entitled Defined Terms; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The Department Of Commerce After Final Adoption By The City Council; And Providing For An Effective Date.

## Applicable Exemptions:

- ☐ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant, or other financial assistance accepted by the municipal government;
- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The ordinance relates to procurement; or
- ☐ The proposed ordinance is enacted to implement the following:
  - ☐ Development orders and development permits, as those terms are defined in s.163.3164, and, development agreements, as authorized by the Florida Local Government Development Agreement Act under ss. 163.3220-163.3243;
  - ☐ Comprehensive Plan Amendments and land development regulation amendments initiated by an application by a private party other than the municipality;
  - ☐ Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
  - ☐ Section 553.73, Florida Statutes, relating to the Florida Building Code; or
  - ☐ Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

**Business Impact Estimate:**

**The City of Marathon hereby publishes the following information:**

- 1. A summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):**

Conditional uses are uses which, because of their character, size and potential impacts, may or may not be appropriate in particular zoning districts. The conditional use requirement 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 and on the basis of all zoning, subdivision and other ordinances applicable to the proposed location and zoning district.

Conditional uses shall not be allowed where the conditional use would create a nuisance, traffic congestion, a threat to the public health, safety or welfare of the community or a violation of any provision of the City Code, state law, rule or regulation. By amending the requirements for single family dwelling units exceeding 6 bedrooms, the ordinance furthers those protections.

- 2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the municipality, including the following, if any:**

- (a) An estimate of direct compliance costs that businesses may reasonably incur if the ordinance is enacted:**

This ordinance amends specific conditional use requirements, that would already need to be paid for as part of the conditional use. No additional direct costs are proposed.

- (b) Identification of any new charge or fee on businesses subject to the proposed ordinance, or for which businesses will be financially responsible:**

There is no new charge or fee associated with this ordinance as it is amending existing specific use requirements for a conditional use.

- (c) An estimate of the municipality's regulatory costs, including an estimate of revenues from any new charges or fees that will be imposed on businesses to cover such costs:**

No additional regulatory costs.

**3. A good faith estimate of the number of businesses likely to be impacted by the ordinance:**

Any registered certified general contractor or certified residential contractor looking to build a new single-family residence or addition to a single family residence under the existing ordinance would still meet the same requirements under the amended ordinance.

**4. Additional information the governing body determines may be useful (if any):**

Single Family Residences are not a business and therefore have little impact on businesses except those contractors as noted above.

**Note:** *The City's provision of information in the Business Impact Estimate section above, notwithstanding an applicable exemption, shall not constitute a waiver of the exemption or an admission that a business impact estimate is required by law for the proposed ordinance. The City's failure to check one or more exemptions below shall not constitute a waiver of the omitted exemption or an admission that the omitted exemption does not apply to the proposed ordinance under Sec. 166.041(4), Fla. Stat., Sec. 166.0411, Fla. Stat., or any other relevant provision of law.*



## PLANNING COMMISSION AGENDA STATEMENT

**Meeting Date:** April 21, 2025

**To:** Honorable Chair and Planning Commissioners

**From:** Erin Dafoe, Associate Planner

**Agenda Item:** Consideration Of A Request By Marathon LLC For An Amendment To A Conditional Use Permit, Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (“The Code”) Entitled “Conditional Use Permits”, Authorizing The Development Of A Climate Controlled Storage Facility and Twenty-four (24) Single Family Residential Units Consisting Of Five (5) Parcels Located At 765 107<sup>th</sup> Street Ocean; Which Is Legally Described As Township 66 Range 33 Key Vaccas Part Government Lot 1 and Part Government Lot 2 Part Parcel 3 And Adjacent Bay Bottom South Of And Adjacent Part Government Lot 1 and Lots 1, 2, 3, & 4 Of Seaglass Flats A Plat Of Lands Located In A Part Of Government Lot 1 Section 6 Township 66S Range 33E On Key Vaca City Of Marathon As Recorded In Plat Book and Page 7-97, Monroe County, Florida, Having Real Estate Numbers 00104260-000000, 00104251-000100, 00104251-000200, 00104251-000300 and 00104251-000400. Nearest Mile Marker 53.

**APPLICANT/ OWNER:** Marathon LLC

**AGENT:** Jim Saunders

**LOCATION:** The project site consists of five parcels located at 765 107<sup>th</sup> Street Ocean and Lots 1-4 107<sup>th</sup> Street Ocean at nearest mile marker 53. See Figure 1.

**REQUEST:** An amendment to a Conditional Use Permit for the redevelopment of the subject property having the real estate numbers 00104260-000000, 00104251-000100, 00104251-000200, 00104251-000300 and 00104251-000400.

**LOT SIZE:** Total acreage 5.97 acres or 259,875 square feet

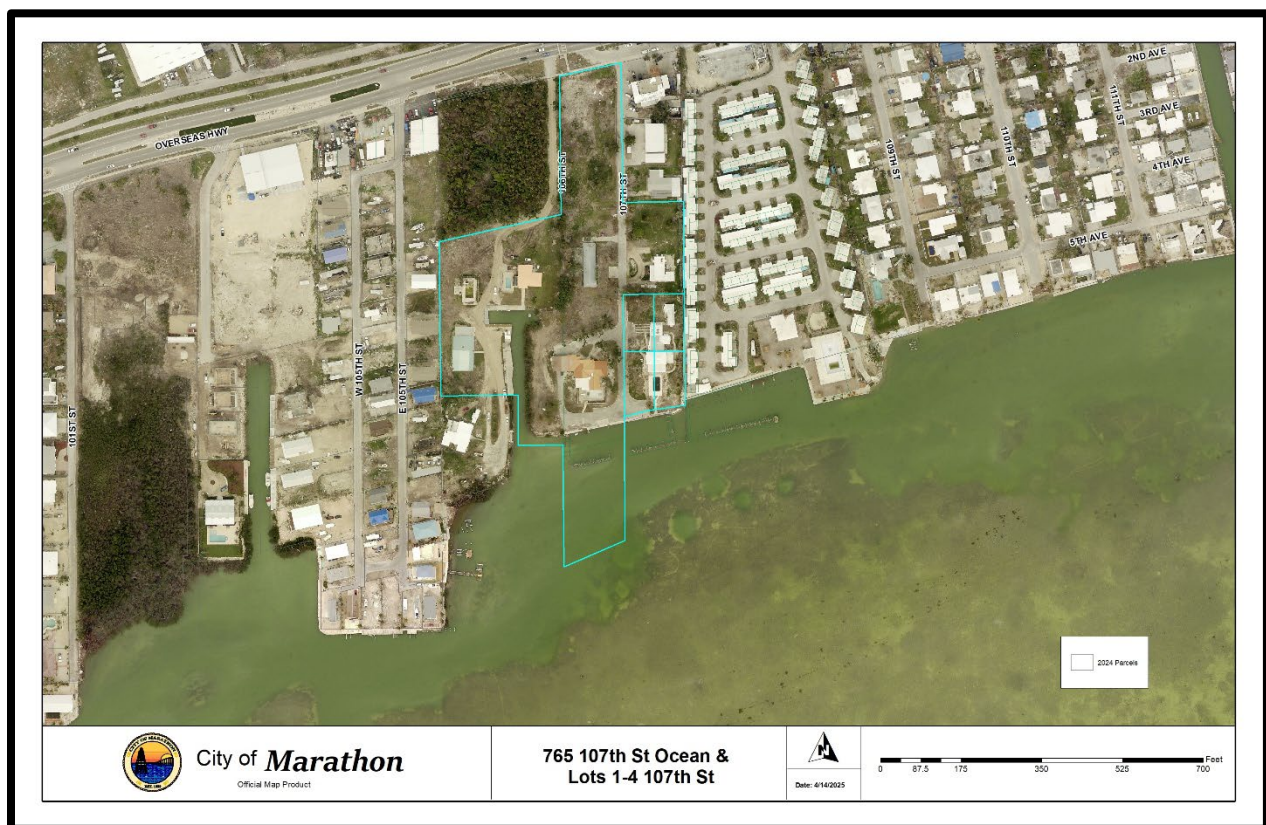
## SURROUNDING ZONING AND USES:

	<u><b>Zoning</b></u>	<u><b>Use</b></u>
<b>North</b>	Mixed Use (MU)	JJ's Dog House, Specialty Hardware and Vacant Land
<b>West</b>	Residential Mobile Home (R-MH) and Mixed Use (MU)	Residential Housing and State-owned vacant land
<b>East</b>	Mixed Use (MU) and Residential High (RH)	Muffler Man, Storage Building and Residential Houses
<b>South</b>	N/A	Open Water

## EXISTING CONDITIONS:

The project site consists of vacant land as previous residential units have been demolished. It has been determined that thirteen (13) Market Rate Building Rights currently exist on the combined parcels. The existing FLUM is Mixed Use Commercial (MU-C), and the zoning is Mixed Use (MU). See Figures 2 and 3.

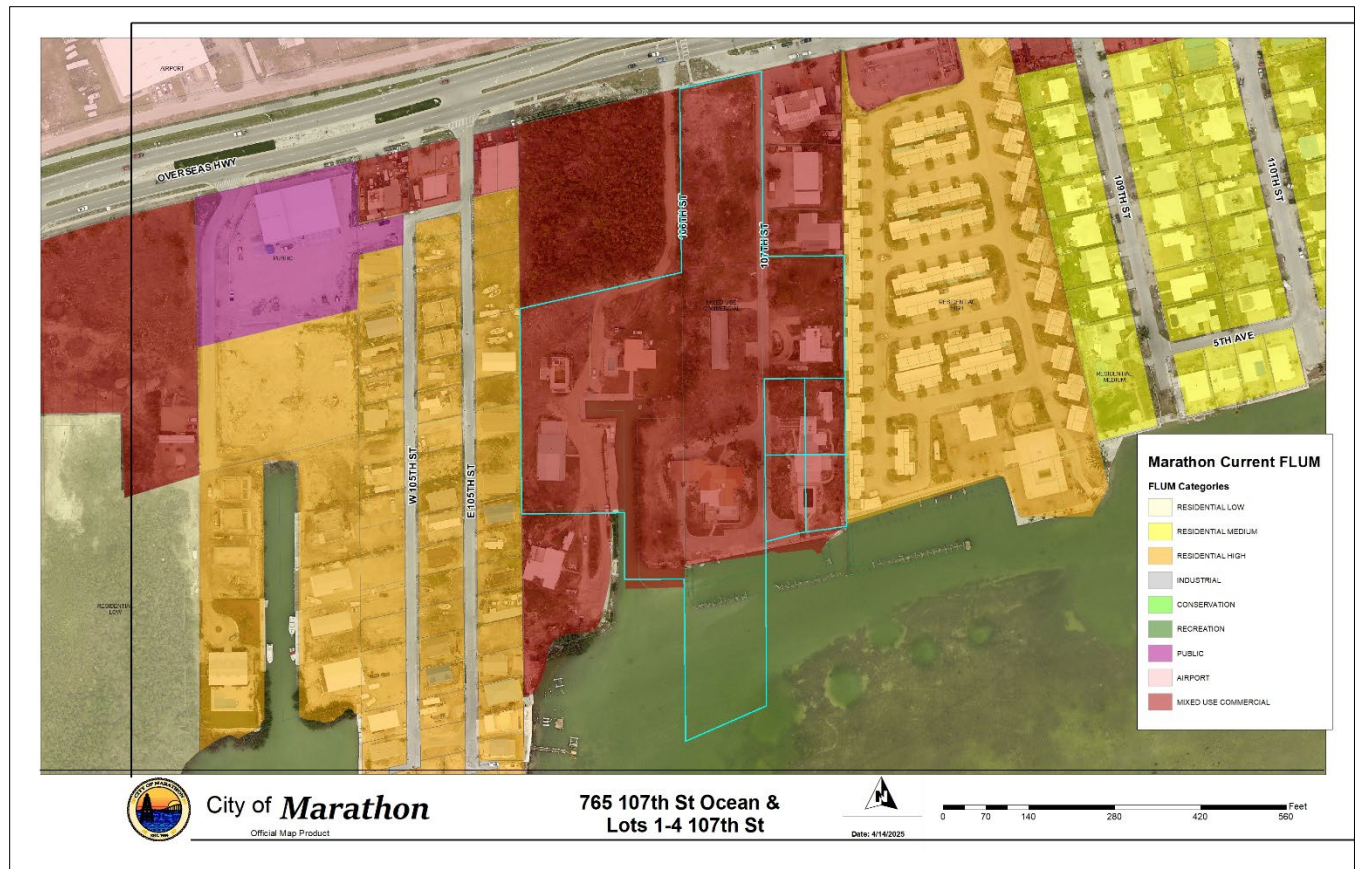
**Figure 1  
Project Site**



## FUTURE LAND USE MAP DESIGNATION:

Mixed Use Commercial (MU-C). See Figure 2.

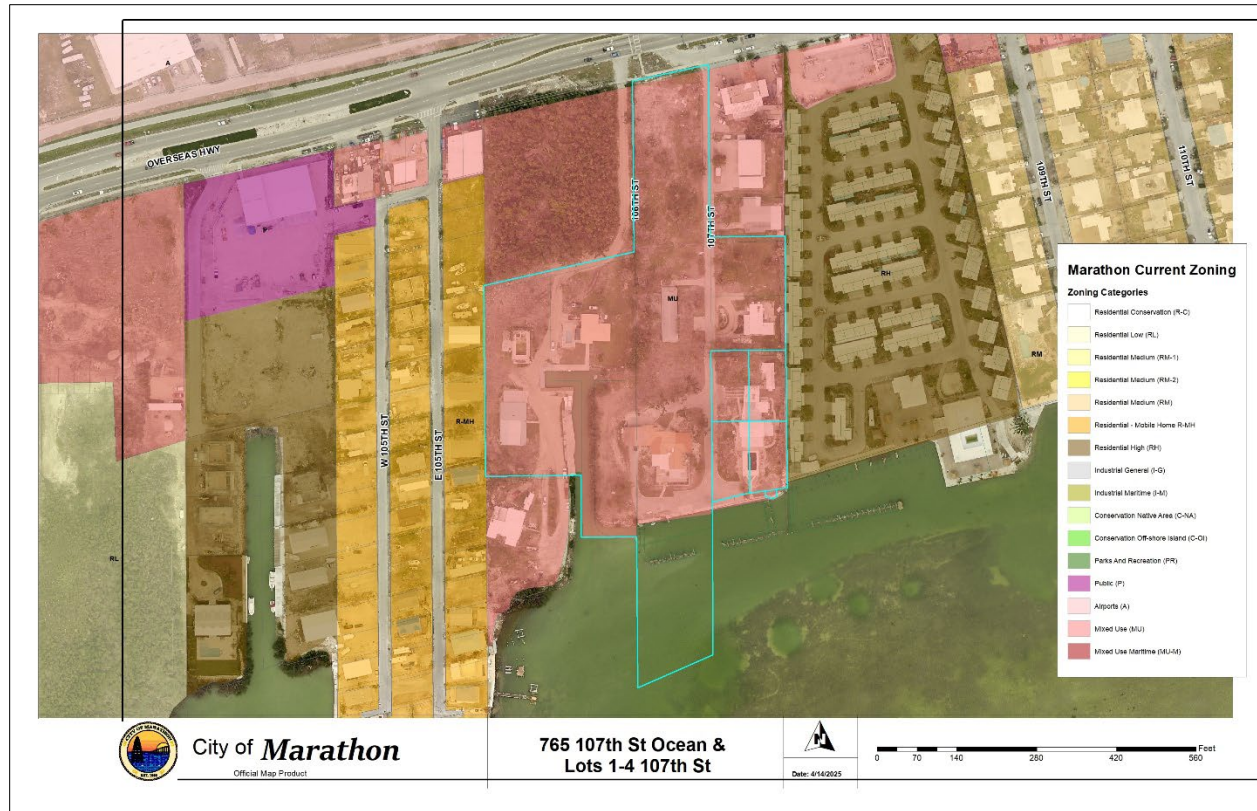
**Figure 2**  
**Future Land Use Map**



## ZONING MAP DESIGNATION:

Mixed Use (MU). See Figure 3.

**Figure 3**  
**Zoning Map**



## PROPOSED REDEVELOPMENT:

Market Rate Units: 24 six-bedroom units

Commercial: 10,000 square feet climate-controlled storage facility

## BACKGROUND:

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

On August 8, 2023, the City Council passed Resolution 2023-66 approving the original conditional use application. Previous approvals included 16 single family residential units and a climate-controlled storage facility; this is being amended.

The Applicant requests an amendment to include the acquisition of the Sea Glass Flats property changing the use to develop twenty-four (24) single family homes.

The existing single-family homes have been demolished. With the combined five parcels it has been determined that thirteen (13) market rate building rights exist. The project will be completed in phases.

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

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

### **CRITERIA**

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

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

The proposed project is for a climate-controlled storage facility and single-family residential units, an allowed use pursuant to Table 103.15.1 of the LDRs, supported by elements of the Comprehensive Plan. Relevant Policies concerning this project follow:

#### **City of Marathon Comprehensive Plan**

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

The project is surrounded by commercial development to the north and east with the exception of partially the property to the east which is residential and commercial and the property to the west which is residential.

#### **d. Policy 1-3.1.4 Future Land Use Categories**

The Future Land Use Map (FLUM) designates the parcels as Mixed-Use Commercial. Within this designation various commercial uses are permitted in addition to commercial, transient, and permanent residential uses as well as marinas and storage facilities. The project is consistent with the intent of this district and neither a zoning nor FLUM change is necessary for this project.

e. Policy 1-3.2.5 Maximum Height

The maximum height of any new structure associated with the redevelopment of the property shall not exceed 42 feet, except as provided by the City Code, as amended. The conceptual elevation plans submitted demonstrate compliance with this requirement.

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

The proposed density is consistent with the thresholds outlined in Table 1-1 of the Comprehensive Plan. Based on the upland area of 5.97 acres, the proposed residential units and storage facility utilize 61% of the density/intensity allowed for this site. The density for each of the proposed uses has been calculated independently.

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

The proposed new business promotes the revitalization of the city's commercial area, with existing commercial to the north and east. The US 1 corridor will be enhanced with the proposed landscaping.

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

The redevelopment plan includes using thirteen existing transient building rights. The remaining will need to be obtained. The commercial floor area will be requested from the City's available pool.

### **City of Marathon Land Development Regulations**

- Section 103.09 – Mixed Use (MU)

The MU District is intended to accommodate a wide range of commercial and residential uses and activities including the proposed climate-controlled storage facility.

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

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

Table 103.15.2 in the Land Development Regulations establishes constraints on density and intensity allowed in the MU district based on the types of uses proposed. Table 103.15.3 further qualifies the allowed range of intensities based on the use. The FAR for mixed-use developments may be increased to .75 if mitigated by the development of affordable/workforce housing is provided. As such, the following table reflects the proposed project density and intensity (shown as floor area (FA)) against the maximum intensity and floor area allowed under the constraints imposed on the 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).

<b>Marathon LLC</b>	
<b>Total 259,875 sq ft</b>	
<b>Market Rate (24)</b>	174,240
<b>Storage Facility</b>	<b>10,000</b>
<b>FAR (See Table 103.15.3)</b>	0.30
<b>Maximum allowed Square Footage</b>	25,690.5 sq ft
<b>Total Proposed</b>	10,000 sq ft

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

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

- **Section 107.47 Parking**

Parking for the site and the project is met with the proposed required ninety-nine parking spaces. The development provides eight exterior standard parking spaces for the storage facility, one exterior handicap space, five trailer spaces and one hundred seventy parking spaces located at residential units for a total of one hundred eighty-four spaces.

- **Section 107.40 Maximum Height**

The project sites are below the forty-two (42) foot height limitation of the City's LDRs.

- **Sections 107.63 – 107.72 Landscaping**

The landscape plan includes a list of native trees to provide shade and temperature reduction along the internal roadway. The parcel to the west is zoned Residential Mobile-Home, parcel to the east is zoned Residential High and a 15' wide buffer is required. Along US 1 corridor to the north the landscape planting will consist of a variety of native plant material varying in size and height to screen the storage building. A mix of canopy, understory and shrubs will be installed throughout the property.

- **Sections 107.73 – 107.81 Open Space**

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

- **Sections 107.82 – 107.85 Fences and Screening**

The project meets City screening and landscaping requirements.

- **Sections 107.87 – 107.97 Stormwater Management**

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

- Sections 107.98 – 107.102.5 Floodplain Management

The site building will be located above FEMA minimum flood elevations. The commercial building will be flood-proofed as required. Therefore, the project is compliant with this requirement of the LDRs.

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

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

The proposed project site is surrounded by other compatible commercial uses to the north and east as well as residential homes to the west.

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

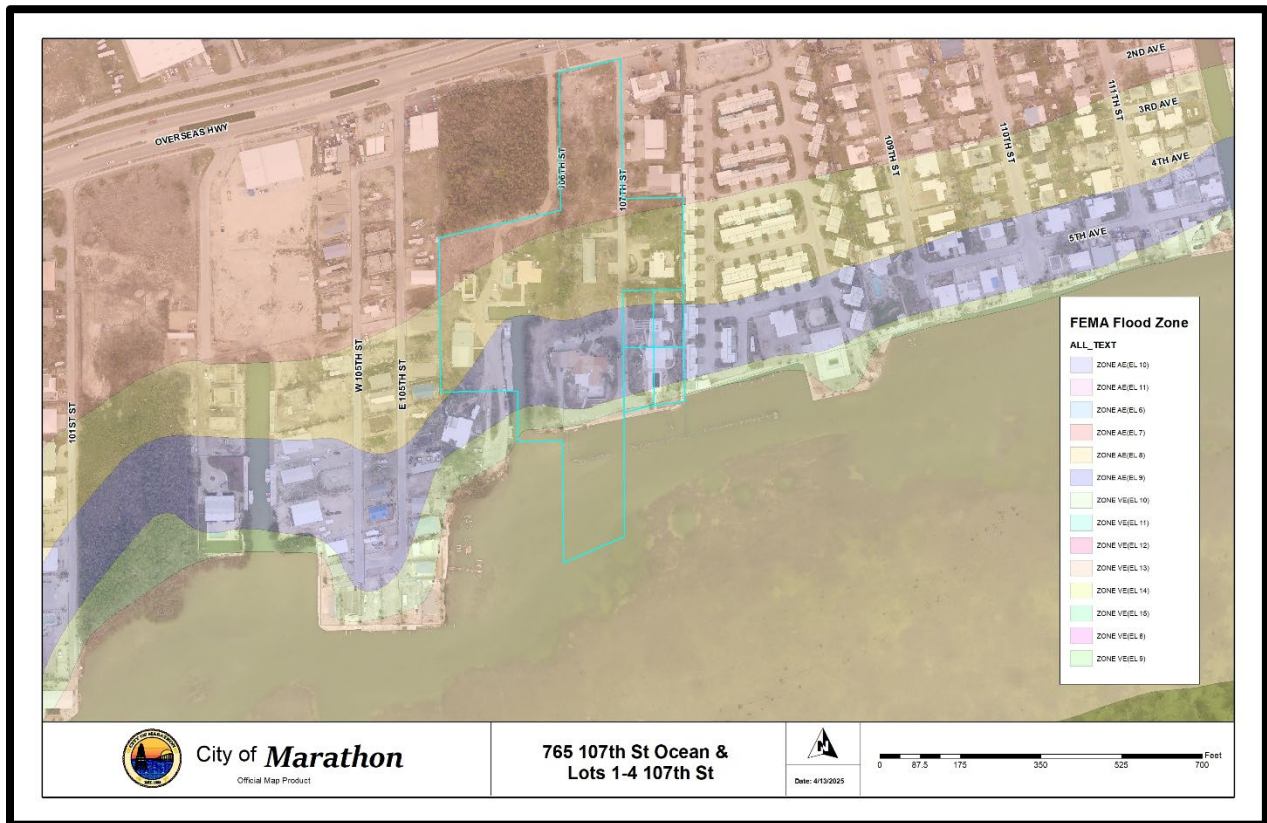
**C. The proposed use shall not adversely affect the health, safety, and welfare of the public;**

The proposed conditional use will enhance the community by providing additional indoor climate-controlled storage as well as new single-family homes. The project will not cause any negative impacts to the City's health, safety, and welfare.

The existing structures will be demolished and new units to be built above FEMA's minimum flood elevations (VE10, AE9, AE8 and AE7) as shown in Figure 4 and is therefore compliant. The commercial building will be flood proofed to meet requirements.

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

### Figure 4 Flood Zones



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

There will be no negative impacts on habitat, environment, or water quality parameters. The proposed stormwater management system shall retain water generated from rain events on site thereby improving the quality of the near shore waters by treating and maintaining the stormwater on site. The shoreline is developed. A map of the area indicates that surrounding properties lie within the FEMA-FWS Species Focus Area for the Eastern Indigo Snake. However, this has absolutely no impact on the project before the Planning Commission and City Council.

**Figure 5**  
**FEMA – FWS Species Focus Area Maps**



All vegetation on site is a mix of non-invasive exotic plantings. Several native palms and trees will be replanted or preserved per the Conceptual Landscape Plan that was submitted. Buffers will be installed as well as streetscape treatment along US 1 as a mixture of shrubs and canopy trees. Native vegetation must be mitigated per Section 106.10.

Project design requires containing all storm water on the property as required by Code.

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

- The project exceeds 1 acre of development, and as such an FDEP general permit for NPEDS will be required.
- Per the LDC, the stormwater criteria require retention of the runoff from a 25yr-72hr storm event. However, in lieu of these criteria, the minimum requirements will be the retention of 1 ½" of runoff for all residential lots and then runoff from 4 ½ inch rainfall event for the roads and commercial lot.
- All runoff from the site shall be routed to the proposed retention swales. A detailed grading plan shall be required for review of construction plans.
- Any native vegetation removed must be mitigated per Section 106.10.

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

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

A traffic study was required for the project. Parking will be provided for staff and clients of the storage facility.

<b>Table 2</b> <b>Marathon LLC</b> <b>Trip Generation Analysis</b> <b>Marathon, Florida</b>								
Land Use	Size	Daily Trips	AM Peak Hour Trips			PM Peak Hour Trips		
			In	Out	Total	In	Out	Total
<i>Proposed</i>								
Single-Family Housing	24 DU	223	4	13	17	14	9	23
Mini-Warehouse	10,000 SF	15	1	0	1	1	1	2
<b>Total</b>		<b>238</b>	<b>5</b>	<b>13</b>	<b>18</b>	<b>15</b>	<b>10</b>	<b>25</b>

The traffic will increase from previous use with the new redevelopment of the property. The project is not expected to adversely impact the operational characteristics of US1, nor will it inhibit the safe flow of traffic traveling through Marathon. The maneuverability on the site includes an interior road located between 106<sup>th</sup> and 107<sup>th</sup> Street connecting the streets so traffic may enter or exit either street to access the storage facility and residential units.

Provisions have been made as part of the redevelopment to address fire access. The proposed entrance from US1 to the site has been designed to accommodate fire and emergency vehicular access.

Bicycle racks have been provided on site. With the change of use for this project an FDOT access permit will be required.

Section 107.43 requires site triangles where the access drive intersects with the street.

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

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

Parking requirements are outlined in Section 107.47 (Mixed-Use Development Parking Requirements). The project provides adequate parking spaces as required.

Use	Code Citation	Requirement	Spaces Required
Mixed Use Development (Storage Facility)	107.47	1 per employee plus 2 visitors	3
Mixed Use Development (Residential Units)	107.47	4 spaces per six-bedroom unit	96
<b>Total Required</b>			<b>99</b>
<b>Total Provided</b>			<b>184</b>

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

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

The proposed use has no known impact on the health, safety, and welfare of the public. No detrimental noise or glare is expected to be generated by the proposed use. Appropriate screening and buffering measures will be required per code and site plan.

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 be fully enclosed and screened. The site plan indicates that all dumpsters are (hidden) screened.

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

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

Chapter 107, Article 13, establishes the City's Concurrency Management and certification requirements. This Conditional Use constitutes the City's Concurrency Level of Service Certificate, as follows. The project will utilize existing space and will have no additional burden on City utilities or public services.

- Wastewater: Site is already connected to sewer. Sewer and other utilities will be provided to 799 106<sup>th</sup> Street with no loss of service.
- 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 redeveloping the site with a higher intensity than was contained within the prior development; therefore, a traffic study is being 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 since existing uses are being replaced in kind.

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

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

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

A landscape plan has been submitted for this application. The plan addresses the required buffers, parking lot and US 1 corridor for plantings.

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

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

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

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 parcel is undeveloped; therefore, a twenty percent open space requirement applies and the site complies with this minimum requirement.

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

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

The proposed development is a Mixed-Use commercial development. The scale and layout of the proposed building are consistent with the City Code.

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

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

Section 104.48 Residential Dwelling Units contains special requirements.

The following criteria are applicable to this redevelopment:

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

**Section 104.53 Storage Facility, Self-Service**

Self-service storage facilities may be allowed pursuant to Table 103.15.1, subject to the following standards:

- A. Individual storage areas shall not exceed 400 square feet each.
- B. Storage of boats, recreational vehicles and similar equipment may be allowed, subject to the following standards:
  - 1. Storage shall occur only within a designated area, approved as part of the site plan.
  - 2. Storage areas shall not exceed 50 percent of the lot area of the site.
  - 3. Boats shall be stored on trailers with wheels.
  - 4. Storage areas shall be completely screened from public rights-of-way or adjacent residential zoning districts, utilizing either the buildings associated with the storage facility or by an opaque masonry wall, or equivalent approved by the Director, a minimum of six (6) feet in height.

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

A unity of title for the parcels will be required.

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

## **CONCLUSION:**

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

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

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

## **RECOMMENDATION:**

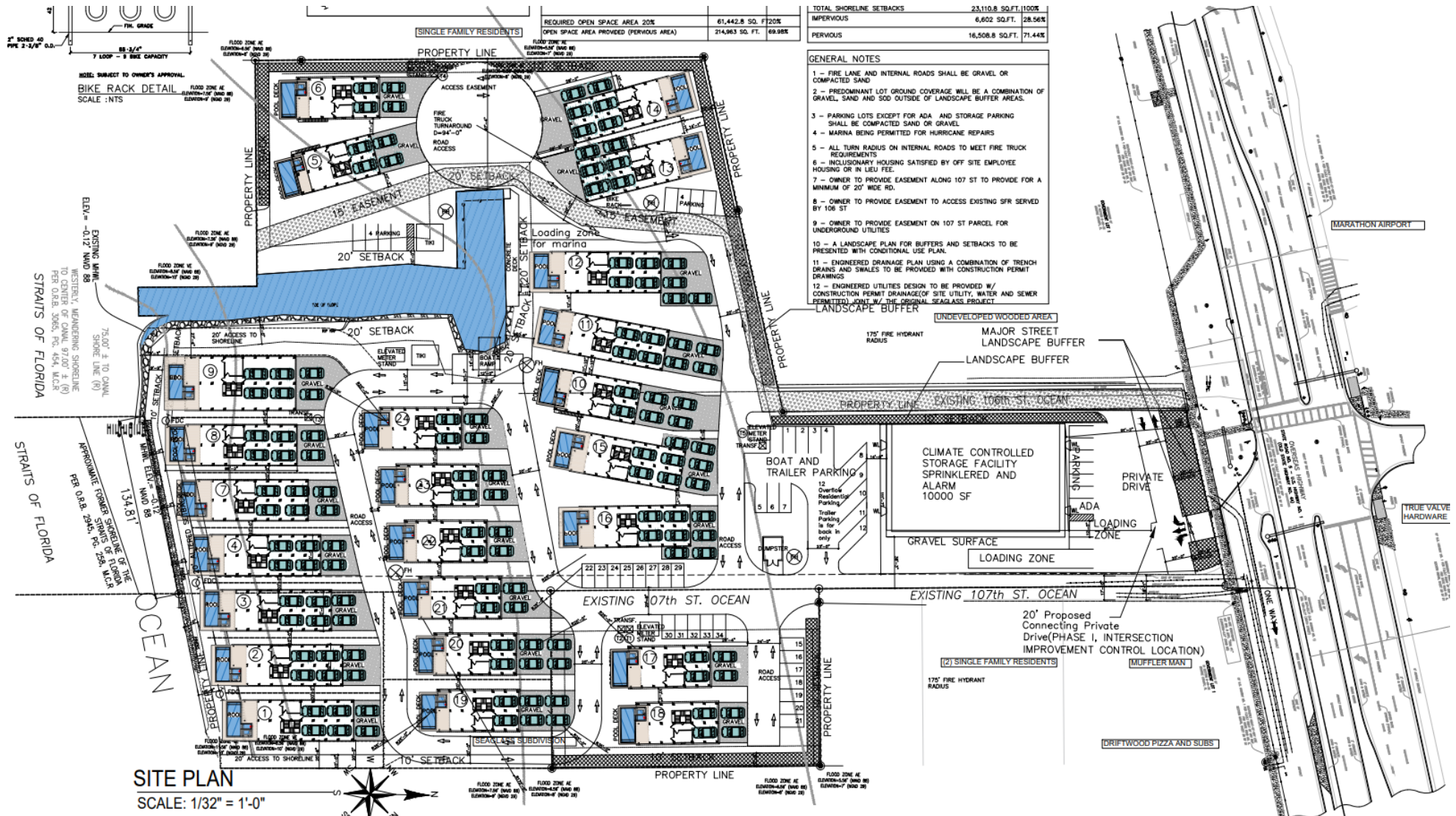
Staff recommends approval of the amended conditional use with conditions of approval listed below.

### Conditions of Approval

1. All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
2. Additional landscape canopy and buffering be placed per site plan.
3. A sewer flow estimate from an engineer will be required to reassess any additional impact.
4. The project exceeds 1 acre of development, and as such an FDEP general permit for NPEDS will be required.
5. Per the LDR, the stormwater criteria require retention of the runoff from a 25yr-72hr storm event. However, in lieu of these criteria, the minimum requirements will be the retention of 1 ½" of runoff for all residential lots and then runoff from 4 ½ inch rainfall event for the roads and commercial lot.
6. All runoff from the site shall be routed to the proposed retention swales. A detailed grading plan shall be required for review of construction plans.
7. Any native vegetation removed must be mitigated per Section 106.10.
8. Since the project is changing use, an FDOT access permit is required.
9. A written agreement or letter must be supplied to the City stating that sewer and other utilities will be provided to 799 106<sup>th</sup> Street with no loss of service.
10. All conditions of the Fire Marshal must be met prior to permit issuance.
11. All required parking spaces must be shown on the final site plan prior to permit issuance.
12. A final lighting plan must be submitted prior to permit issuance.
13. A final landscape plan must be submitted prior to permit issuance.
14. Dumpsters are to be screened per code.

15. A unity of title is required for the properties.
16. Staff require 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.
17. The private yard area for rooftop balcony dwelling is provided by the roof or balconies of the structure.
18. 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.
19. 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.
20. 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.
21. The Applicant must obtain and transfer eleven (11) market rate 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 RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT.
22. The Conditional Use Development Order will constitute the Certificate of Concurrence for the project. The determination will be valid for one year.
23. All construction of required streets and utilities shall be completed pursuant to this Section. Construction Guarantees shall be required pursuant to Sections 102.50 and 102.51 and shall provide that if the construction of the required improvements is not completed within two (2) years after approval of the final plat, the City may deem the applicant to be in default pursuant to Section 102.52 D.
24. Individual storage areas shall not exceed 400 square feet each.
25. Storage of boats, recreational vehicles and similar equipment may be allowed, subject to the following standards:
26. Storage shall occur only within a designated area, approved as part of the site plan.
27. Storage areas shall not exceed 50 percent of the lot area of the site.
28. Boats shall be stored on trailers with wheels.
29. Storage areas shall be completely screened from public rights-of-way or adjacent residential zoning districts, utilizing either the buildings associated with the storage facility or by an opaque masonry wall, or equivalent approved by the Director, a minimum of six (6) feet in height.

## SITE PLAN



## Amendment to CUP-23-1 Phasing Plan

The cover letter to this Amendment to the conditional use has a coordination plan with the current permitted work being done

### Proposed New Construction Phasing:

Currently Marathon, LLC has the following building permits issued:  
P-24-784 (Utility Plan for 16 home project);  
P-23-1023 (To provide fire, water, and electric service to the Seaglass Flats parcel, and the three home area of the Marathon, LLC project just East of 107 Street Ocean;  
P-24-785 Landscape permit for the 16-home project;  
P-24-1094 Home permit lot 6;  
P-24-1095 Home permit Lot 10; and  
P-24-1096 Home permit Lot 5.

The above- mentioned work will continue, except for portions of the project that require changes if the Amendment to CUP-23-1 is approved.

### Tentative Amendment to CUP-23-1 Revision Phasing Plan:

Complete infrastructure for all remaining homes;  
Phase 1 underway;

The phasing for the remaining homes and storage facility is proposed to be:  
Build homes 1,2,3,4,7,8, and 9;  
Build homes 14,13,12, and 11;  
Build homes 24,23,22,21,20, and 19;  
Build homes 15,16,17, and 18; and  
Build Story Facility.