



**City of Marathon Planning Commission**  
**Monday May 20, 2019**  
**9805 Overseas Hwy**  
**City Hall Council Chambers**  
**5:30 PM**

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

**5. Quasi-Judicial Statement**

Please be advised that some of the items on the agenda are quasi-judicial in nature. If you wish to give testimony on any item please inform the Boards clerk by filling out an available sign up form. An opportunity to speak will be made available after the applicant and staff have made their presentations on each item. All testimony, including public testimony and evidence, will be made under oath or affirmation. Additionally, all persons giving testimony may be subject to cross examination. If you refuse either to be cross examined or to be sworn your testimony will not be considered. The general public will not be allowed to cross examine witnesses, but they can ask the Commission to ask questions on their behalf. Persons representing organizations must present evidence of their authority to speak for the organization.

**6. Items For Public Hearing**

**Item 1:** Consideration Of A Request For A Conditional Use Permit For Coral Construction Company 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 Affordable Housing, Outdoor Storage Yard, And Commercial Office Space; Located At 347 Aviation Boulevard; Which Is Legally Described As A Tract Of Land In A Part Of Sections 1 And 2, And Containing Lots 11, 12, 13, 14, 15, And A Portion Of Lots 10 And 16, Schmitt Subdivision, Township 66 South, Range 32 East, Key Vaca, Monroe County, Florida; Having Real Estate Numbers 00101300-000000 & 00101360-000000, Nearest Mile Marker 51.

**Item 2:** 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 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.

**Item 3:** Consideration Of A Request For A Conditional Use Permit For Midway Specialty Care Center, Inc. Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (Code) Entitled “Conditional Use Permits” For The Development Of A Medical Clinic; Located At 11400 Overseas Highway Units 103 & 104; Which Is Legally Described As Lots 2, 17, And 18 Less The Southerly Seven Feet And Half Vacated Alley, Key Colony Subdivision, Key Vaca, Monroe County, Florida; Having Real Estate Number 00334860-000000, Nearest Mile Marker 53.

**Item 4:** An Ordinance Of The City Of Marathon, Florida, Amending The City’s Comprehensive Plan To Modify Or Add To Its Conservation And Coastal Element, Goals Objectives, And Policies To Comply With Florida Statute 163.3178(2)(F) “Peril of Flood”; Intending To Modify, “Purpose;” Goal 4-1, “Conserve, Manage, Use, And Protect Natural And Environmental Resources;” Policy 4-1.3.3, “Surface Water Management And Flood Damage Prevention;” And Objective 4-1.17, “Minimum Coastal Hazards;” And Intending To Add Policies To Include Policy 4-1.17.8, “Strategies For Responding To Sea Level Rise;” Policy 4-1.17.9, “Flood-Resistant Development Requirements;” Policy 4-1.17.10, “Extreme Weather Event Mitigation;” Policy 4-1.17.10, “Best Practices And Mitigation Strategies;” And Policy 4-1.17.11, “Best Practices And Mitigation Strategies;” And Finally, Intending To Modify Objective 4-1.22, “Reduce Exposure To Natural Hazards,” Policy 4-1.22.5, “Manage Redevelopment Activities; And Policy 4-1.22.8, “Regulate Redevelopment Of Non-Conforming Structures To The Required Base Flood Elevation;” Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity After The First Hearing By The City Council; And Providing For An Effective Date.



**City of Marathon  
Planning Commission  
Monday April 15, 2019  
9805 Overseas Hwy  
City Hall Council Chambers**

**MINUTES**

Chairman Jeff Smith called the meeting of the Planning Commission to order on Monday, April 15, 2019 at City Hall Council Chambers, 9805 Overseas Hwy. at 5:30 pm.

In attendance: Planning Director George Garrett, Attorney David Migut, Growth Management Director Doug Lewis, Planner Geovanna Torres, Admin Assistant Lorie Mullins and members of the public.

The Pledge of Allegiance was recited.

The roll was called. Mike Cinque-present; Lynn Landry-present; Pam Dobson-present; Mike Leonard-present; Jeff Smith-present.

Chairman Smith asked for approval of the last meeting minutes.

Lynn Landry moved to approve. Mike Leonard seconded. The roll was called. The minutes were approved 4-0. Chairman Smith was absent for that meeting.

The Quasi-Judicial Statement was read into the record.

**Item 1** was read into the record. Consideration Of A Request For A Conditional Use Permit And Development Agreement For 1477 Overseas Highway LLC And Seasons Inc., Pursuant to Chapter 102, Articles 8 & 13 Of The City of Marathon Land Development Regulations (Code) Entitled "Conditional Use Permits" And "Development Agreements," For The Redevelopment Of The Properties As An Affordable Mobile Home Park, Located at 1477 Overseas Highway And 263 15<sup>th</sup> Street, Which Are Legally Described As The North 150 Feet of Lot 1 and 2, Part of Lots 1 and 2, Block 2, Parrish Subdivision, Marathon, Florida, Having Real Estate Numbers 00326770-000000 and 00326760-000000. Nearest Mile Marker 48.

There were no ex-parte communications.

Garrett presented the item with the use of visual aids. He clarified that the units will be approximately mobile home size but will meet the Florida Building Code.

Leonard started the discussion by asking why the applicant needs the right to move the units after 10 years.

Garrett stated that since the units would be deed restricted in perpetuity it would be acceptable to move the affordable units to a new location as the site is more likely to be developed as commercial.

Chairman Smith asked if the City had ever approved a 10 year 'right to move' in the past, Garrett said it had not been done in the past.

Cinque noticed the item is written as a 10 unit mobile home park, however the report mentions deed restricted modular units. He requested it be made clear in the development agreement.

Landry asked the difference in density between MU and R-MH. 15 per acre in MU and 25 per acre in R-MH.

In MU zoning the density would allow for 8 units on these 2 parcels.

Chairman Smith asked about the density in the 2 different zones and why the applicant was not doing a change of zoning. If we are using the R-MH density on a MU parcel it needs to be in compliance. Without a zoning change the density compliance is not met. Smith asked why we calculated density on the smallest area zone and not the largest area. He also asked that calculations for units/density be presented to them in the agendas.

Landry asked if this has been allowed in the past, Garrett stated this was a unique situation.

Chairman Smith asked about the condition that allows the applicant a 6' wall with exterior facing landscaping on the US 1 property boundary in lieu of a full landscape buffer. Garrett stated it would be a combination of fence and landscape and should not be written as 'in lieu'.

Chairman Smith asked how many units are allowed in the MU zone, Garrett answered 5 units. And on the R-MH zone, Garrett answered 2, possibly 3, with the intent to develop affordable housing.

Mike Aranda Sr. was sworn in.

He answered questions:

1. The fence is to be located along US1 as close as possible to the bike path.
2. The ability to move the units in 10 years is because he believes Olde Town should be a commercial corridor, and has the potential to be revived and get cleaned up in the future.
3. 3/2 units are proposed at \$1800-\$2100 per month.

Cinque commented that he could not support the project. The developers need to provide workforce housing for the community for their projects.

Chairman Smith said that he cannot support the project as it is written: allowing the units to be moved later, due to foreseeable title issues and over density for the zoning.

Chairman Smith asked Aranda about the landscaping and wall. Aranda stated that the landscaping buffer would be on the development side of the wall, not US1.

Chairman Smith made a motion to approve the item with the following changes: require a Unity of Title, strike Condition 2, and require landscaping on the US1 side of the fence.

Leonard seconded. The roll was called. The motion was approved 4-1, with Cinque dissenting.

**Item 2** was read into the record. Consideration Of A Request By Grassy Key Resort Group, LLC For A Conditional Use Permit and Development Agreement 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, Seeking For The Redevelopment Of Hotel Resort And Commercial Uses On Property Located at 58182 Overseas Highway, Which Is Legally Described As Township 65, Section 24, Range 33; Block 36 Lots 1-2-3-4 And Part of Lots 5-6 (Parcel A) And Westerly 15FT Unnamed Street Adjacent Lot 1 Res B-C-C 8/11/61 And Adjacent Portion Of Flagler Street And Grassy Key Bay Bottom Adjacent Lots 1-2-3 in the Crain’s Subdivision, Grassy Key, Marathon, Florida; Having Real Estate Numbers 00370940-000000. Nearest Mile Marker 58.5.

Geovanna Torres presented the item with the use of visual aids.

Lesley Rhyne presented the item on behalf of the applicant.

After a brief discussion on density and parking, Landry moved to approve the item. Dobson seconded.

There were no ex-parte communications.

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

**Item 3** was read into the record. An Ordinance Of The City Of Marathon, Florida Amending The Future Land Use Map From Residential Low (RL) To Residential Medium (RM) For The Property Described As Lots 5 Through 9, Block 58, Crain’s Subdivision, Marathon, Monroe County, Florida, Having Real Estate Numbers 00374600-000000, 00374610-000000, 00374620-000000, 00374630-000000, 00374640-000000; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity; And Providing For An Effective Date Upon The Approval Of This Ordinance By The State Department Of Economic Opportunity.

-and-

**Item 4** was read into the record. An Ordinance Of The City Of Marathon, Florida Amending The Official Zoning Map From Residential Low (RL) To Residential Medium (RM) For The Property Described As Lots 5 Through 9, Block 58, Crain’s Subdivision, Marathon, Monroe County, Florida, Having Real Estate Numbers 00374600-000000, 00374610-000000, 00374620-000000, 00374630-000000, 00374640-000000; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity; And Providing For An Effective Date Upon The Approval Of This Ordinance By The State Department Of Economic Opportunity.

There were no ex-parte communications on the item.

Garrett presented the item with the use of visual aids.

Cinque did not agree with increasing the density noting that it is not consistent with surrounding properties.

John Wolfe presented the item for the applicant, stating that the change is compliant with code and LDRs, would reduce the potential for a takings case and the RL zoning designation was inherited from the County.

Cinque commented that a unity of title would give them the density to build 12 BPAS units.

After a brief discussion on density of surrounding properties, Cinque made a motion to deny based on density creeping. There was no second.

David Migut reiterated what was in front of the commission to be voted on.

Chairman Smith made a motion to approve item 3. Dobson seconded. The roll was called. The motion was approved 4-1, with Cinque dissenting.

Chairman Smith made a motion to approve item 4. Dobson seconded. The roll was called. The motion was approved 4-1 with Cinque dissenting.

Chairman Smith called for a 5 minute recess.

**Item 5** was read into the record. An Administrative Appeal Filed By Chad Tracy Regarding The Decision Of The City Of Marathon Denying Permit P2018-0787 Based On A Decision By The City That The Residence In Question Was Substantially Damaged Pursuant To Chapter 107, Article 12, "Floodplain Management;" For Property Located At 868 73<sup>rd</sup> Street Ocean, Lot 11, Fields Subdivision, Key Vaca, And Having Real Estate Number 00342330-000000, Nearest Mile Marker 51.

David Migut was the council for city staff. Gaylan Jones was the council for the commission.

All speakers were sworn in.

Ex-parte communications were disclosed: Jones stated that he had the opportunity to speak to city staff and council for the appellatant regarding the item.

Cinque disclosed that he had spoken with the applicant and Garrett and it would have no impact on his decision.

Leonard disclosed that he had spoken with the applicant and Garrett and it would have no impact on his decision.

Landry disclosed that he had spoken to Garrett, Tracy and Sims and it would have no impact on his decision.

Smith disclosed that he had conversations with city staff and it would have no impact on his decision.

Pam Dobson abstained.

Garrett gave a brief factual introduction of the item.

Attorney Yagle presented his case and called Chad Tracy to the stand.

They discussed the timeline of applications and denial letters, reviewed line item costs produced by Tracy and by city staff, and discussed the independent appraisal obtained by the city.

David Migut cross examined Tracy.

David Migut called Garrett to the stand to testify in a narrative.

Garrett reviewed the definitions of substantial damage and substantial improvement, explained the accumulative 3 year assessment of substantial improvement, went through the timeline of events, and reviewed the analysis of cost to repair. Garrett showed photos of the house taken in 2006 and photos of the house with work in progress by Tracy.

Yagle cross examined Garrett.

David Migut called Doug Lewis to the stand to testify in a narrative.

Doug Lewis reviewed the appraisals and estimated cost of repairs which he stated did not make sense.

Yagle cross examined Lewis.

No further witnesses were called by the City.

Yagle gave his closing statement, the City did not implement a consistent methodology for calculations on substantially damaged properties.

Migut gave his closing statement, the City took time, but wanted to get it right due to FEMA. The decision of city staff should be upheld.

After a brief discussion on the appraisal amounts and cost differences, Cinque made a motion to grant the appeal to the applicant. Chairman Smith seconded. The roll was called. The motion was approved 3-1, with Leonard dissenting.

Motion to adjourn.

Chairman Smith adjourned the meeting at 9:09 p.m.

ATTEST:

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Jeff Smith – Planning Commission Chairman

ATTEST:

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Lorie Mullins-Administrative Assistant  
City of Marathon Planning Department

DRAFT

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:** May 20th, 2019  
**To:** Planning Commission  
**From:** George Garrett, Planning Director

**Agenda Item:** Consideration Of A Request For A Conditional Use Permit For Coral Construction Company 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 Affordable Housing, Outdoor Storage Yard, And Commercial Office Space; Located At 347 Aviation Boulevard; Which Is Legally Described As A Tract Of Land In A Part Of Sections 1 And 2, And Containing Lots 11, 12, 13, 14, 15, And A Portion Of Lots 10 And 16, Schmitt Subdivision, Township 66 South, Range 32 East, Key Vaca, Monroe County, Florida; Having Real Estate Numbers 00101300-000000 & 00101360-000000, Nearest Mile Marker 51.

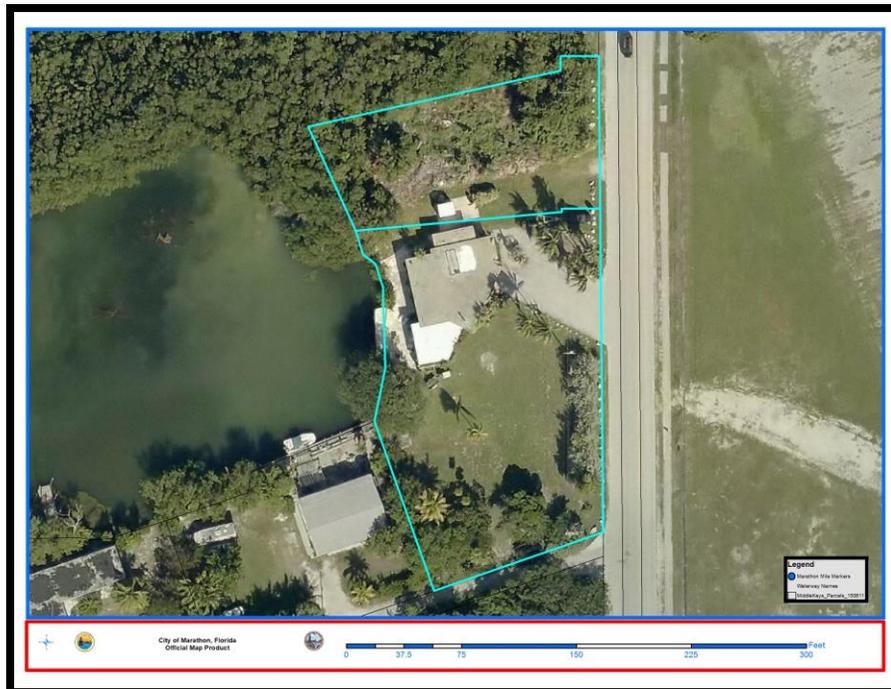
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**APPLICANT/ OWNER:** Coral Construction Company

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

**LOCATION:** The project site consists of 2 parcels. The other parcel is located at 347 Aviation Boulevard nearest mile marker 51. See Figure 1.

**Figure 1**  
**Project Site**

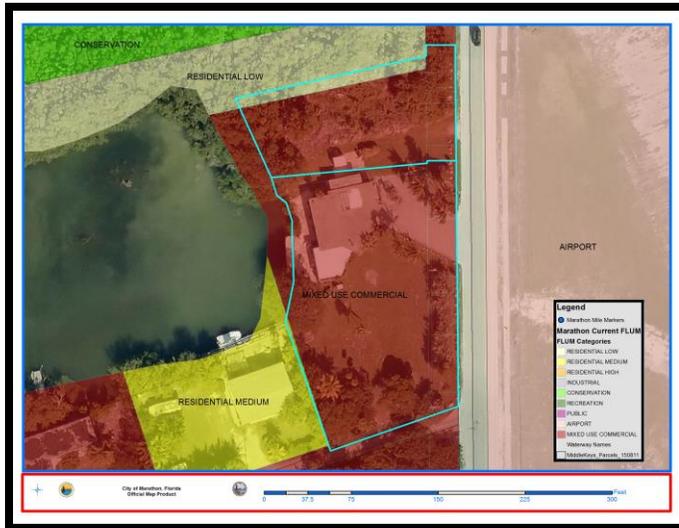


**REQUEST:** A Conditional Use Approval and Development agreement for redevelopment of the subject property having the real estate numbers 00101300-000000 & 00101360-000000.

**FUTURE LAND USE MAP DESIGNATION:**

Mixed Use Commercial (MUC). See Figure 2.

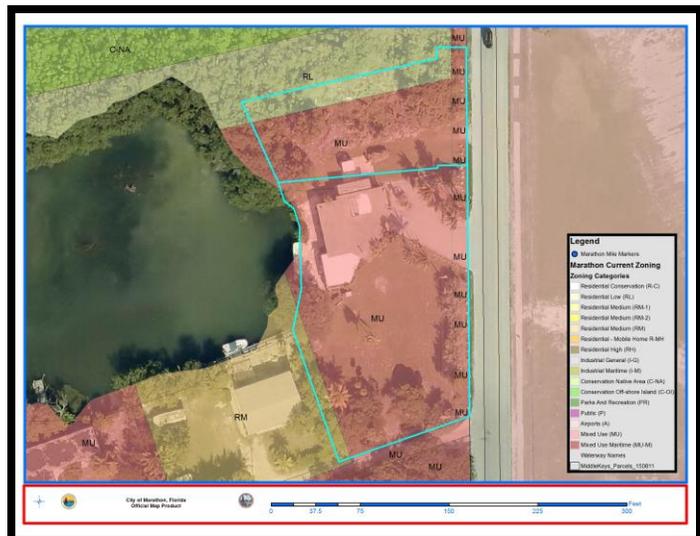
**Figure 2  
Future Land Use Map**



**ZONING MAP DESIGNATION:**

Mixed Use (MU). See Figure 3.

**Figure 3  
Zoning Map**



**LOT SIZE:**

Total acreage: approximately 1.07 acres or 46,610 square feet

**SURROUNDING ZONING AND USES:**

	<u>Zoning</u>	<u>Use</u>
<b>North</b>	Mixed Use, Residential Low, Conservation Native Area	Coconut Cay and Vacant land
<b>East</b>	Airport	Marathon Airport
<b>South</b>	Mixed Use	Coconut Cay, vacant land
<b>West</b>	Residential Medium and Mixed Use	SFR, Vacant (250 Gulf Terrace)

**EXISTING CONDITIONS:**

The project site consists of a two parcels. The parcels contain a single family residence.

**PROPOSED REDEVELOPMENT:**

Affordable Units:                14 Units  
Commercial:                        2,000 square feet

**BACKGROUND:**

The proposed project is a redevelopment of property to include the construction of new affordable and commercial uses in the Mixed Use zoning classification. This report addresses the Conditional Use application. **All conditions of the Conditional Use approval will have to be met before any building permit will be approved.**

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

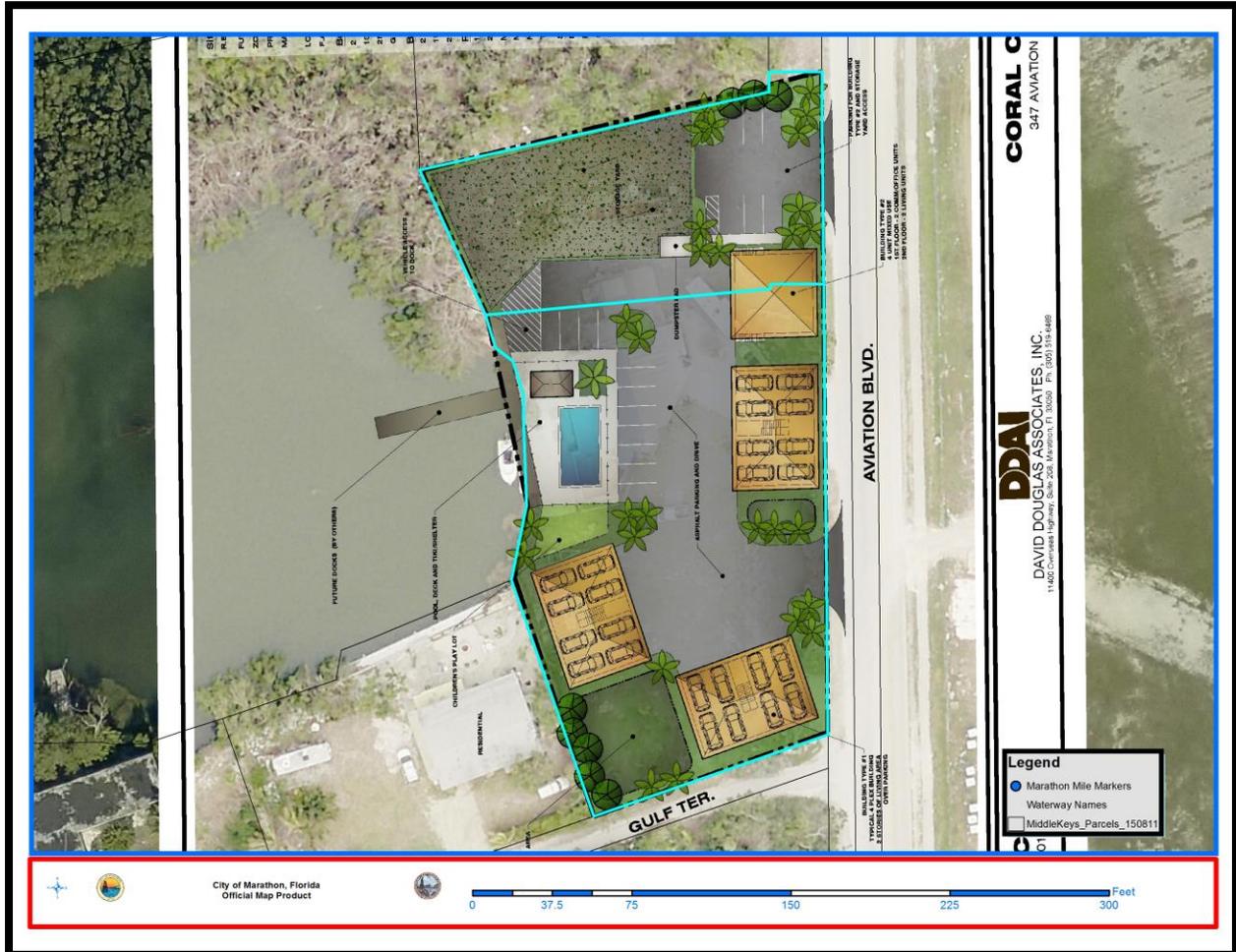
The criteria for evaluating a Conditional Use Approval are outlined in Chapter 102, Article 13, Conditional Use Permits, in the City of Marathon Land Development Regulations.

**CRITERIA**

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

The proposed redevelopment project is located within the Mixed Use (MU) Zoning District. Per Chapter 103, Article 2, Section 103.09 of the Land Development Regulations, the district is designed to “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

**Figure 4  
Proposed Redevelopment Site Plan**



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. 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 project as proposed meets the density constraints imposed on the type of proposed use.

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

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

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

The existing land use pattern in the project vicinity consists of the airport to the east, commercial motel to the south, commercial and residential uses to the north, 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 of Marathon.

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

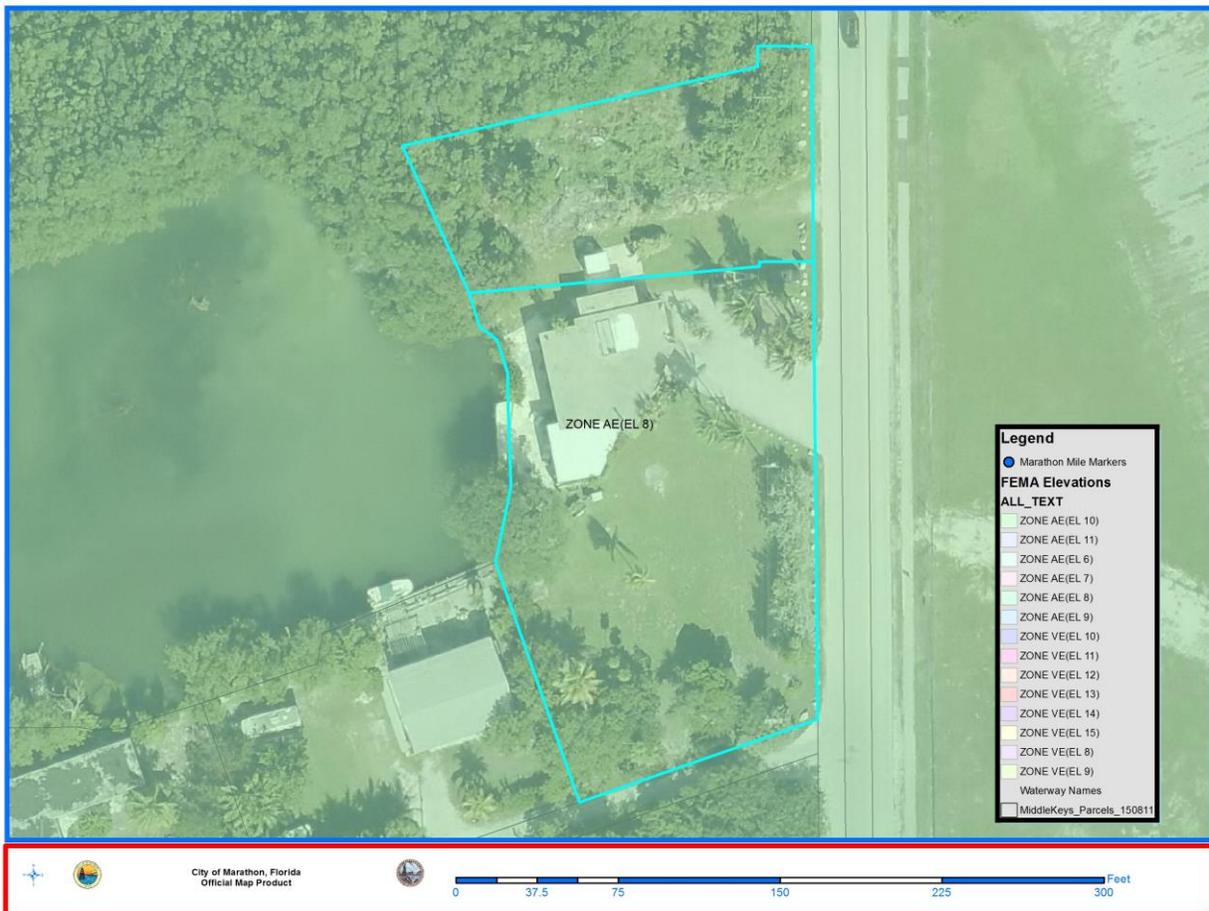
**C. The proposed use shall not adversely affect the health, safety, and welfare of the public;**

The proposed use is the redevelopment and expansion of residential use which has not had any known impact to the health, safety and welfare of the public. The additional office and outdoor storage are not expected to create any adverse impacts to the health, safety, and welfare of the public.

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**  
**FEMA Flood Maps**

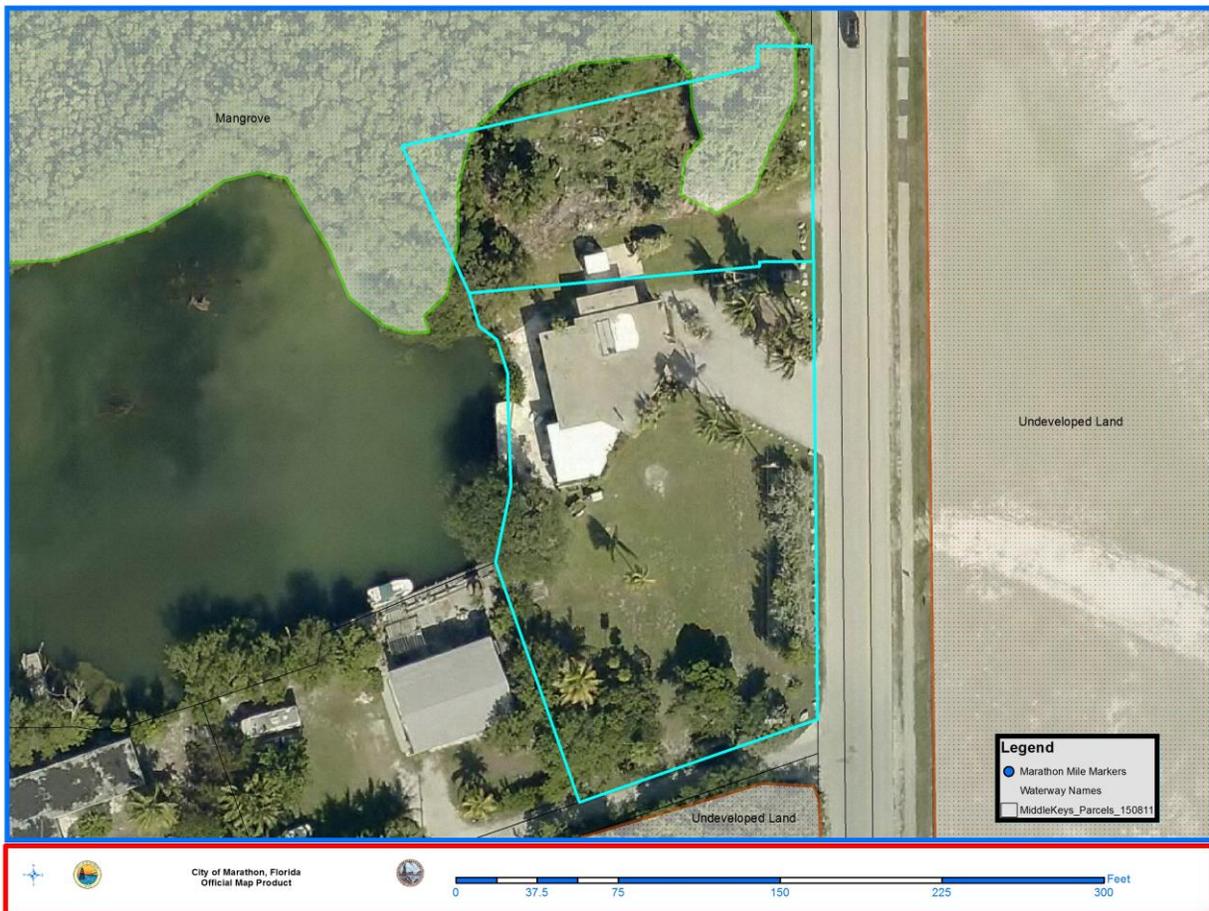


Therefore, the request is ***in compliance*** with the requirements of these sections.

**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 maps indicate the subject area is designated as developed, although there are portions that are undeveloped along the mangrove fringes. A site inspection showed the current conditions as scarified with a building near the water. A portion of the property is recognized as possible habitat for a state or federally listed animal species, the eastern indigo snake. Figure 6 shows that this portion falls under the category of mangroves. The portion along the front, though identified as mangroves on the species focus, is actually buttonwoods and exotics on the City Habitat Map. 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**  
**Species Focus Area Habitat**



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

Site landscaping will be selected from Table 107.68.1, Appendix A, Article 8, Section 107 of the

City of Marathon Code of Ordinances. The native vegetation will improve the environmental quality of the site and reduce irrigation needs.

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

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

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

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

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

The applicant has provided a breakdown of the proposed occupancy of the onsite buildings. The “Trip Generation Analysis” schedule provided by the traffic engineer shows that 15 Single Family Residences will create 142 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.

Land Use	Size	Daily Trips	AM Peak Hour Trips			PM Peak Hour Trips		
			In	Out	Total	In	Out	Total
Multifamily	15	64	2	6	8	6	4	10
Office	1000 sq. ft.	16	2	0	2	1	2	3
Outdoor Storage	1500 sq. ft.	64	2	0	2	0	2	2
<b>Total</b>		144	6	6	12	7	8	15

Ingress and egress to the properties is currently provided by an existing driveway. The site plan proposes splitting the residential and commercial each with their own separate driveways. The trip generation analysis of the traffic study shows that with the analyzed units and commercial, the daily trips generated would be 144.

Additionally, for the intersection of US1 and Aviation, DOT is scheduled to have plans completed by May 24th. Construction on the intersection improvements is to be expected to commence approximately in September.

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 fourteen residences, two parking spaces are required for each unit. The commercial office requires 4 spaces. One space is required for every 10 bedrooms. Therefore a total of 35 spaces must be provided, the applicant proposes 41 standard spaces. The submitted site plan shows the parking spaces to be located under the units. A final site plan showing the number and dimensions of the spaces will be required prior to permit issuance.

Section 107.52 includes a requirement that one handicapped space be provided for every 25 spaces required. Based upon the 41 spaces, two ADA spaces are required. Parking space sizes are 9' x 18' for 90 degree parking.

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.

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

The proposed project consists of redevelopment of an existing residential 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 site plan shows the dumpster located on a pad, this 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 pits.

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

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

Table 107.66.1 establishes project boundary buffer standards applicable to the project. The subject parcel is zoned MU and is bordered to the west by property zoned RM, and to the North by property zoned RL. There is a high project boundary buffer requirement for portions of the project area adjacent to parcels zoned RM & RL. The final landscape plans must be approved by the City Biologist.

Buffer Type	Minimum Width	Canopy Tree	Understory Tree	Non-Deciduous	Shrub	Screening
H-High	20 feet	10	5	5	30	Yes

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 is along Aviation and thus requires a type III buffer.

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

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

This plan shows a 49.5’ setback on the front yards, 63.5’ setback side yard setback nearest the RM

parcel and 20' rear yard setback.

Setback	Required	Required Landscape	Proposed	Compliant
Front	0-30	NA	20	Yes
Side RM	10	20	20	Yes
Side	10	NA	20	Yes
Rear	20	NA	20	Yes

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. This results in 9,322 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 redevelopment of property that has needed improvement and maintenance. Adjacent

uses include a commercial establishment and other residential dwelling units. A redevelopment of the property into affordable residential units 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 37' as measured from the crown of the roadway or unimproved grade. The site plans show that buildings are below 37'.

While the proposed structures are below the maximum heights for aviation, staff is requiring that an aviation easement be completed between the applicant and Monroe County Airport. The draft aviation easement has been proposed with the Monroe County Airport, will have to be signed and recorded prior to permit issuance.

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

- An aviation easement must be recorded in the Clerk of Courts prior to permit issuance.

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

Section 104.03 Affordable Housing contains special requirements.

The following criteria are applicable to this redevelopment:

- Dwelling units shall contain less than or equal to 1,800 square feet of habitable space.
- Occupancy of affordable housing units is limited to those meeting the following income requirements:
  - 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;
  - 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;
  - 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;
  - 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;
  - 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;
- 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;

- 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;
- 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
- If the dwelling units utilize affordable housing BPAS allocations, the requirements of Subsection 107.06(c) shall also apply.
- 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.

Section 104.48 Residential Dwelling Units contains special requirements.

The following criteria are applicable to this redevelopment:

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

Section 104.42 Outdoor Storage contains special requirements.

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

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 a long standing existing residential use, as well as the development of new affordable 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 Residential Development to the City Council. The proposed conditions of approval are listed below.

Conditions of Approval

- 1) 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.
- 2) A final Landscape/mitigation plan must be submitted prior to permit issuance.
- 3) The applicant will provide fire protection plans in accordance with fire protection requirements as outlined by the City Fire Marshal
- 4) The final site plan must show the required parking spaces with prior to permit issuance.
- 5) The final site plan must show that the dumpsters are screened.
- 6) City approval is required for the stormwater management system prior to Building Permit Approval.
- 7) City approval of the connection to the City Wastewater Utility will be required.
- 8) A utility easement must be recorded for access and maintenance.
- 9) A Final Landscape Plan must be submitted showing the proper treatments and buffers,

- including the appropriate treatment types and trees.
- 10) A Final Site Plan must be submitted showing the buildings meeting the required setbacks, parking locations, and access drives.
  - 11) All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
  - 12) An avigation easement must be recorded in the Clerk of Courts prior to permit issuance.
  - 13) Dwelling units shall contain less than or equal to 1,800 square feet of habitable space.
  - 14) Occupancy of affordable housing units is limited to those meeting the following income requirements:
    - 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;
    - 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;
    - 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;
    - 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;
    - 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;
  - 15) 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;
  - 16) 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;
  - 17) 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
  - 18) If the dwelling units utilize affordable housing BPAS allocations, the requirements of Subsection 107.06(c) shall also apply.
  - 19) 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.

- 20) Two (2) side yards are required for stacked duplexes.
- 21) Townhouses are limited to ten (10) dwelling units per row, except for affordable housing.
- 22) The private yard area for rooftop balcony dwelling is provided by the roof or balconies of the structure.
- 23) 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.
- 24) 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.
- 25) 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.
- 26) Outdoor storage shall be incidental and subordinate to the primary use located on the property.
- 27) Storage areas shall be located to the side or rear of the principal building and completely screened from view.
- 28) A unity of title must be recorded with the Clerk of Courts, prior to permit issuance.
- 29) Affordable housing deed restrictions must be recorded with the Clerk of Courts, prior to permit issuance
- 30) The Conditional Use Development Order will constitute the Certificate of Concurrence for the project. The determination will be valid for one year.
- 31) The Applicant must obtain and transfer fourteen (14) affordable 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.**

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



**SITE CONCEPT**  
JANUARY 31, 2019

**DDAI**  
DAVID DOUGLAS ASSOCIATES, INC.  
11400 Overseas Highway, Suite 208, Marathon, FL 33050 Ph. (305) 519-8469

**CORAL CONSTRUCTION**  
347 AVIATION BLVD., MARATHON, FLORIDA

PLANNING COMMISSION AGENDA STATEMENT



**Meeting Date:** May 20th, 2019  
**To:** Planning Commission  
**From:** George Garrett, Planning Director

**Agenda Item:** 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 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.

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**APPLICANT/ OWNER:** Captain Pips Holdings, LLC

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

**LOCATION:** The project site consists of 3 parcels. The parcels are located at 1470 Overseas Highway nearest mile marker 48. See Figure 1 & 2.

**Figure 1**  
**Project Site**



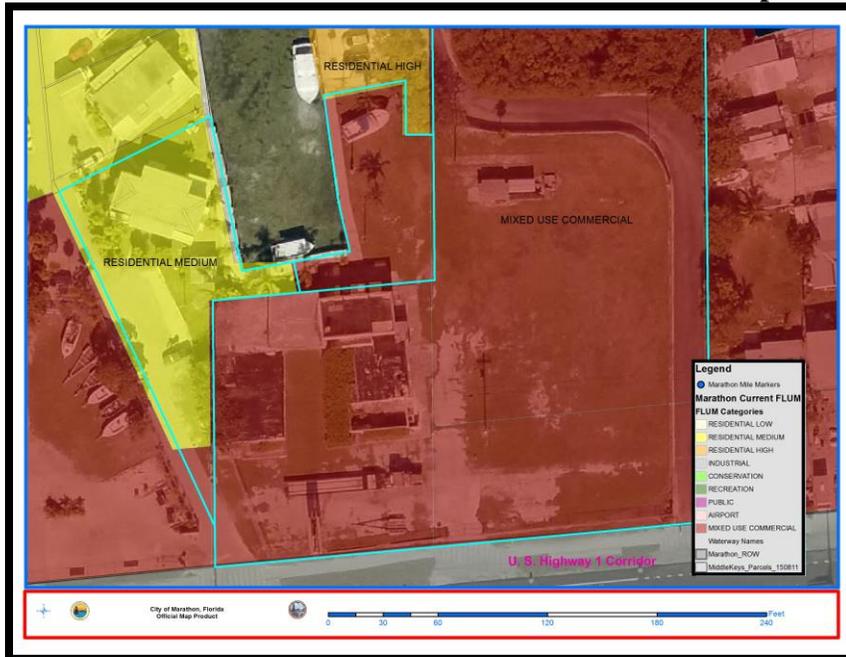
**Figure 2  
Project Site**



**REQUEST:** A Conditional Use Approval for redevelopment of the subject property having the real estate numbers 00320350-000000, 00102790-000000, & 00102760-003000.

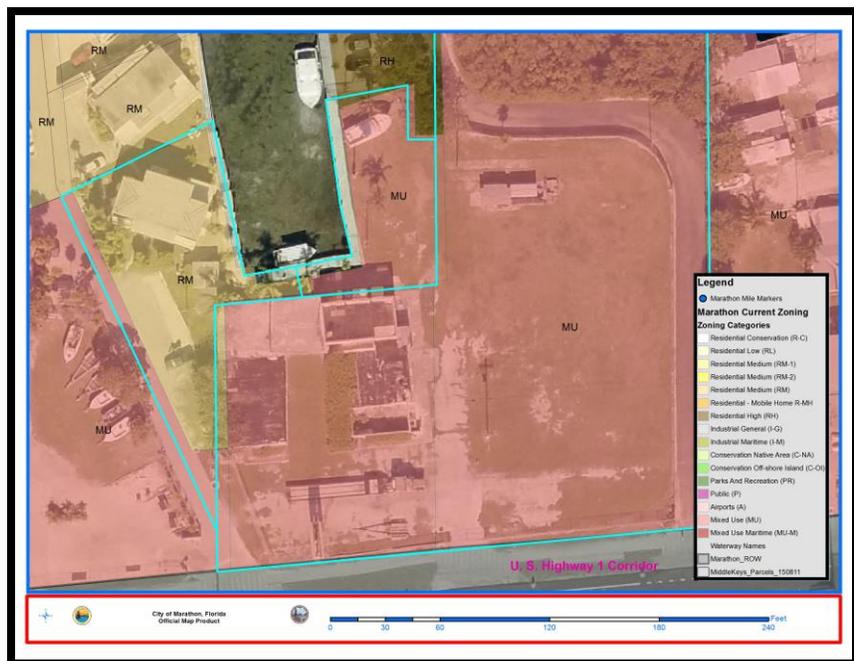
**FUTURE LAND USE MAP DESIGNATION:**  
Mixed Use Commercial (MUC). See Figure 3.

**Figure 3  
Future Land Use Map**



**ZONING MAP DESIGNATION:**  
Mixed Use (MU). See Figure 4.

**Figure 4  
Zoning Map**



**LOT SIZE:**

Total acreage: approximately 1.24 acres or 54,014 square feet

**SURROUNDING ZONING AND USES:**

	<u>Zoning</u>	<u>Use</u>
<b>North</b>	Residential Medium and Residential High	Casa Cayo, Harbor Cay Club, and Captain Pips
<b>East</b>	Mixed Use	Lenchos Mexican Restaurant and residential
<b>South</b>	Mixed Use and Residential Mobile Home	Trailerama, Dion’s
<b>West</b>	Residential Medium and Mixed Use	Porky’s, Captain Pips

**EXISTING CONDITIONS:**

The project site consists of three parcels. The residential parcel contains a fourplex, and the commercial parcel previously was developed with Hanley’s Restaurant and Marina.

**PROPOSED REDEVELOPMENT:**

Market Rate Units:               6 Units  
Affordable Units:                1 Units  
Commercial:                       3,200 square feet and accessory structures

**BACKGROUND:**

The proposed project is a redevelopment of property to include the construction of new residential uses and commercial and marina uses in the Mixed Use zoning classification. This report addresses the Conditional Use application. **All conditions of the Conditional Use approval will have to be met before any building permit will be approved.**

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

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

**CRITERIA**

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

The proposed redevelopment project is located within the Mixed Use (MU) Zoning District. Per Chapter 103, Article 2, Section 103.09 of the Land Development Regulations, the district is designed

**Figure 5  
Proposed Redevelopment Site Plan**



to “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 US 1 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 project as proposed meets the density constraints imposed on the type of proposed use.

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

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

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

The existing land use pattern in the project vicinity consists of the restaurants commercial and residential to the east, 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 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;**

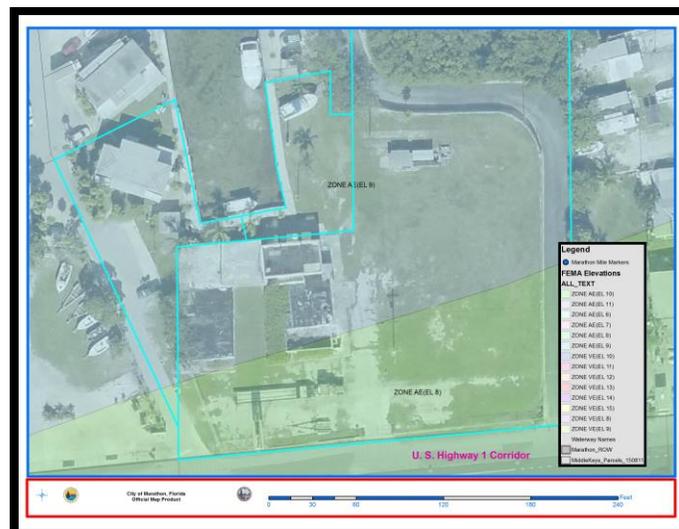
The proposed use is the creation of residential use which has not had any known impact to the health, safety and welfare of the public. Additionally the creation of the office and restaurant space are not expected to create any adverse impacts to the health, safety, and welfare of the public.

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

- Will not have a detrimental effect on the use of such waters for navigation, transportation, recreational or other public purposes and public conveniences;
- Will not restrict the free use of the waterways and navigable waters;
- Will not have a material adverse effect upon the flow of water or tidal currents in the surrounding waters;
- Will not have a material adverse effect upon erosion, erosion control, extraordinary storm drainage, shoaling of channels, or would be likely to adversely affect the water quality presently existing in the area or limit progress that is being made toward improvement of water quality in the area;
- Will not have a material adverse effect upon the natural beauty and recreational advantages of the City;
- Will not have a material adverse effect upon the conservation of wildlife, marine life, and 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 6**  
**FEMA Flood Maps**

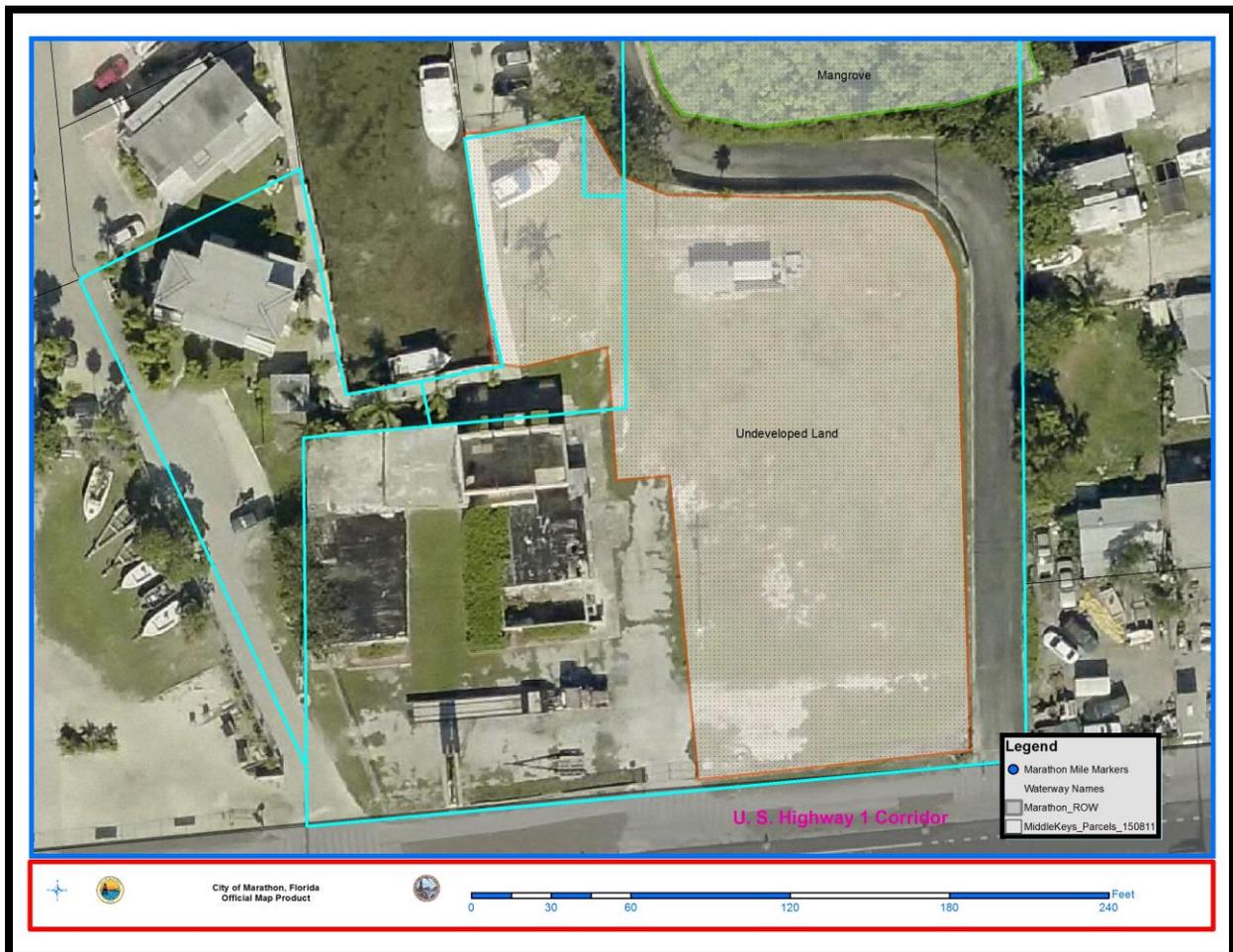


Therefore, the request is ***in compliance*** with the requirements of these sections.

**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 maps indicate the subject area is designated as developed, although there are portions that are undeveloped along the mangrove fringes. A site inspection showed the current conditions as scarified with a building near the water. A portion of the property is recognized as possible habitat for a state or federally listed animal species, the eastern indigo snake. Figure 7 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 7  
Species Focus Area Habitat**



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

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

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

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

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

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

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

The applicant has provided a breakdown of the proposed occupancy of the onsite buildings. The “Trip Generation Analysis” schedule provided by the traffic engineer shows that combined uses will create 193 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.

Land Use	Size	Daily Trips	AM Peak Hour Trips			PM Peak Hour Trips		
			In	Out	Total	In	Out	Total
Multifamily	7	12	1	3	4	3	2	5
Office	2000 sq. ft.	32	3	1	4	2	3	5
Coffee w/o drive-thru	1200 sq. ft.	121	62	59	121	22	22	44
Marina	12 berths	28	0	1	1	2	1	3
<b>Total</b>		193	66	64	130	29	28	57

Ingress and egress to the properties is currently provided by an existing driveway, as well as two access roads. The site plan proposes maintaining the existing drive way, and adding additional drive areas to access onto the two adjacent access roads. The trip generation analysis of the traffic study shows that with the analyzed units and commercial, the daily trips generated would be 193.

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 seven residences, two parking spaces are required for each unit. One space is required for every 10 bedrooms. The twelve berths require 6 parking spaces. Five spaces are required for the office. The coffee shop requires one space every three seats, and one space for every two employees on the largest shift. Therefore an approximate total of 51 spaces must be provided, the applicant proposes 68 spaces. The submitted site plan shows the parking spaces to be located under the residential units, and along the front side and rear of the commercial. A final site plan showing the number and dimensions of the spaces will be required prior to permit issuance.

Section 107.52 includes a requirement that one handicapped space be provided for every 25 spaces required. Based upon the 68 spaces, three ADA spaces are required. Parking space sizes are 9' x 18' for 90 degree parking.

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

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

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

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

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

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

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

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

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

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

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

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

- Wastewater: The applicant will provide wastewater and sewage collection and disposal via proposed sanitary clean outs, the property is currently connected to the City sewer system. This project will constitute an expansion, resulting in a de minimis impact. The applicant must provide utility easements for the proposed alterations.
- Water: The Florida Keys Aqueduct Authority will provide potable water for the facility.
- Solid Waste: Marathon Garbage Service will provide solid waste disposal.
- Surface Water: The applicant has provided stormwater design information suitable for the Conditional Use application review which demonstrates compliance with City standards. However, a final stormwater plan will be required for building permit issuance. This will provide full topographic survey up 25 feet off-site and centerline of adjacent road.
- Recreation and Open Space: This redevelopment will have a de minimis impact on recreation and open space.
- Roadways: The applicant is redeveloping the site with a higher intensity than was contained within the prior development; therefore, a traffic study was completed to analyze the impact on transportation facilities.
- Educational Facilities: This redevelopment will have a de minimis impact on educational facilities.

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

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

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

Table 107.66.1 establishes project boundary buffer standards applicable to the project. The subject parcel is zoned MU and is bordered to the Northeast by property zoned RH, and to the Northwest by property zoned RM. There is a medium project boundary buffer requirement for portions of the project area adjacent to parcels zoned RH. As the access drive for the residential is adjacent to the RM, additional buffering is not recommended as it would hinder clear site.\* Both sites are owned by the applicant, so the buffer reduction does no negatively impact adjacent uses. The final landscape plans must be approved by the City Biologist.

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 follow: front yard 0-30'; interior side yards 10'; and rear setbacks have a 20' setback from the property line.

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 106.16 established required open space for the project. The site is scarified; therefore, a twenty percent open space requirement applies. This results in 10,803 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 redevelopment of property that has needed improvement and maintenance. Adjacent uses include a commercial establishment and other residential dwelling units. A redevelopment of the property into a mix of residential units and commercial with marina is expected to be fully compatible with these uses. The proposed project represents improvement to the current state of prior development, and is expected to increase compatibility with surrounding properties.

Section 107.40 restricts the height of buildings to 37' as measured from the crown of the roadway or unimproved grade. The site plans show that buildings are below 37'.

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 104.03 Affordable Housing contains special requirements.

The following criteria are applicable to this redevelopment:

- Dwelling units shall contain less than or equal to 1,800 square feet of habitable space.
- Occupancy of affordable housing units is limited to those meeting the following income requirements:
  - 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;
  - 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;
  - 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;
  - 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;
  - 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;
- 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;
- 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;
- 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
- If the dwelling units utilize affordable housing BPAS allocations, the requirements of Subsection 107.06(c) shall also apply.
- 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.

Section 104.48 Residential Dwelling Units contains special requirements.

The following criteria are applicable to this redevelopment:

- Two (2) side yards are required for stacked duplexes.
- Townhouses are limited to ten (10) dwelling units per row, except for affordable housing.
- The private yard area for rooftop balcony dwelling is provided by the roof or balconies of the structure.

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

Section 104.42 Outdoor Storage contains special requirements.

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

Section 104.30 Marina contains special requirements.

The following criteria are applicable to this redevelopment:

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

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

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

## **CONCLUSION:**

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

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

## **RECOMMENDATION:**

Planning staff recommends that the Planning Commission forward a recommendation of conditional approval of the proposed development to the City Council. The proposed conditions of approval are listed below.

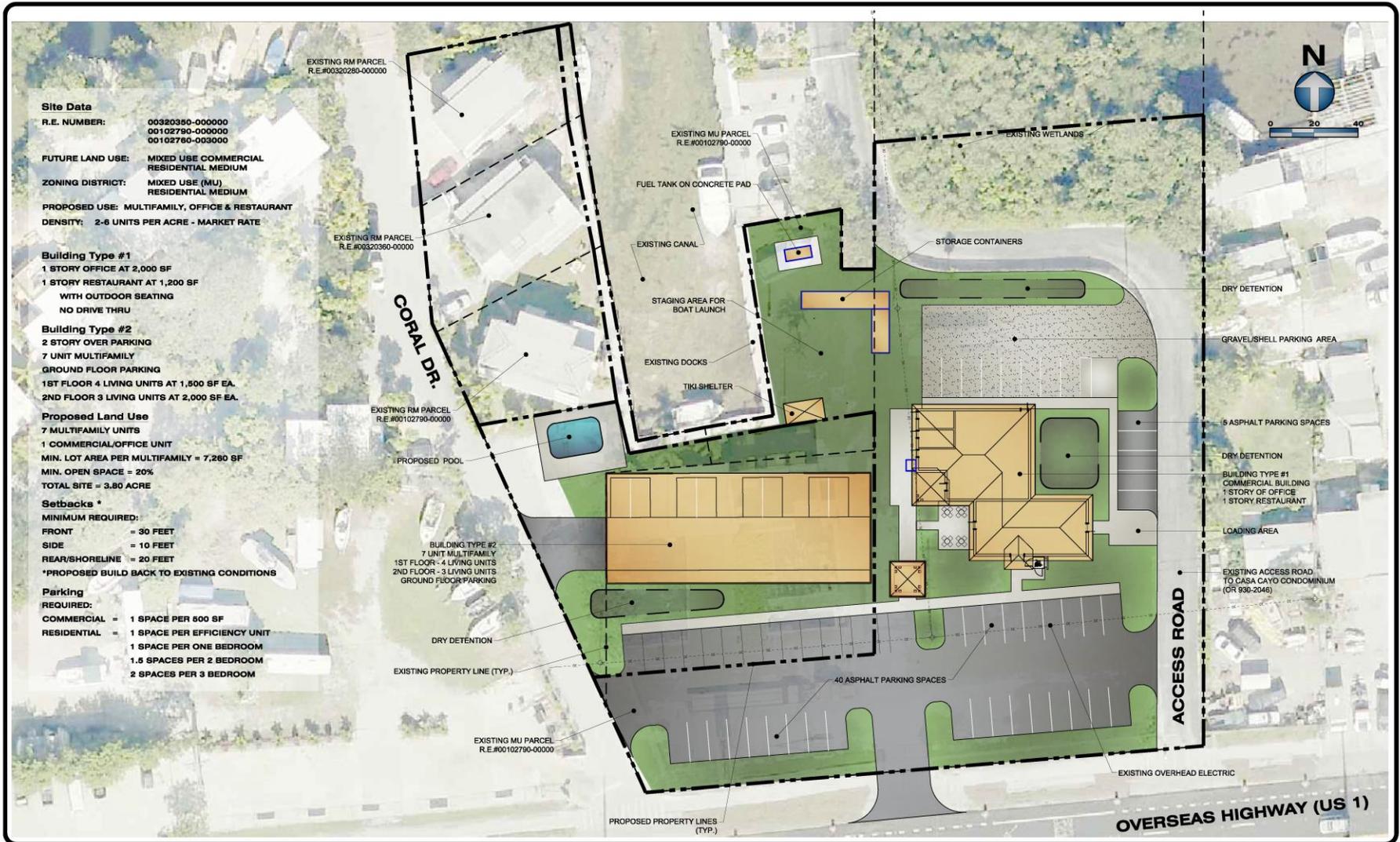
### Conditions of Approval

- 1) Staff requires that upon planning review, if the redevelopment is found to have any effect on the Eastern Indigo Snake Habitat, then the prescribed protection measures must be undertaken, and the information poster posted on site.
- 2) A final Landscape/mitigation plan must be submitted prior to permit issuance.
- 3) The applicant will provide fire protection plans in accordance with fire protection requirements as outlined by the City Fire Marshal
- 4) The final site plan must show the required parking spaces with prior to permit issuance.
- 5) The final site plan must show that the dumpsters are screened.
- 6) City approval is required for the stormwater management system prior to Building Permit Approval.
- 7) City approval of the connection to the City Wastewater Utility will be required.
- 8) A utility easement must be recorded for access and maintenance.
- 9) A Final Landscape Plan must be submitted showing the proper treatments and buffers, including the appropriate treatment types and trees.
- 10) A Final Site Plan must be submitted showing the buildings meeting the required setbacks, parking locations, and access drives.
- 11) All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
- 12) An avigation easement must be recorded in the Clerk of Courts prior to permit issuance.
- 13) Dwelling units shall contain less than or equal to 1,800 square feet of habitable space.
- 14) Occupancy of affordable housing units is limited to those meeting the following income requirements:
  - o 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;
  - 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;
  - 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;
  - 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;
  - 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;
- 15) 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;
  - 16) 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;
  - 17) 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
  - 18) If the dwelling units utilize affordable housing BPAS allocations, the requirements of Subsection 107.06(c) shall also apply.
  - 19) 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.
  - 20) Two (2) side yards are required for stacked duplexes.
  - 21) Townhouses are limited to ten (10) dwelling units per row, except for affordable housing.
  - 22) The private yard area for rooftop balcony dwelling is provided by the roof or balconies of the structure.
  - 23) 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.
  - 24) 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.
  - 25) 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.
- 26) Outdoor storage shall be incidental and subordinate to the primary use located on the property.
  - 27) Storage areas shall be located to the side or rear of the principal building and completely screened from view.
  - 28) 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.
  - 29) 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.
  - 30) 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.
  - 31) A unity of title must be recorded with the Clerk of Courts, prior to permit issuance.
  - 32) Affordable housing deed restrictions must be recorded with the Clerk of Courts, prior to permit issuance
  - 33) The Conditional Use Development Order will constitute the Certificate of Concurrence for the project. The determination will be valid for one year.
  - 34) The Applicant must obtain and 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.**

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



**CONDITIONAL USE PLAN**

March 4, 2019



DAVID DOUGLAS ASSOCIATES, INC.  
11400 Overseas Highway, Suite 208, Marathon, FL 33050 Ph. (305) 517-8469

**CAPTAIN PIPS**

1480 OVERSEAS HIGHWAY, MARATHON, FLORIDA

## PLANNING COMMISSION AGENDA STATEMENT

**Meeting Date:** May 20, 2019  
**To:** Planning Commission  
**From:** George Garrett, Planning Director

**Agenda Item:** Consideration Of A Request For A Conditional Use Permit For Midway Specialty Care Center, Inc. Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (Code) Entitled “Conditional Use Permits” For The Development Of A Medical Clinic; Located At 11400 Overseas Highway Units 103 & 104; Which Is Legally Described As Lots 2, 17, And 18 Less The Southerly Seven Feet And Half Vacated Alley, Key Colony Subdivision, Key Vaca, Monroe County, Florida; Having Real Estate Number 00334860-000000, Nearest Mile Marker 53.

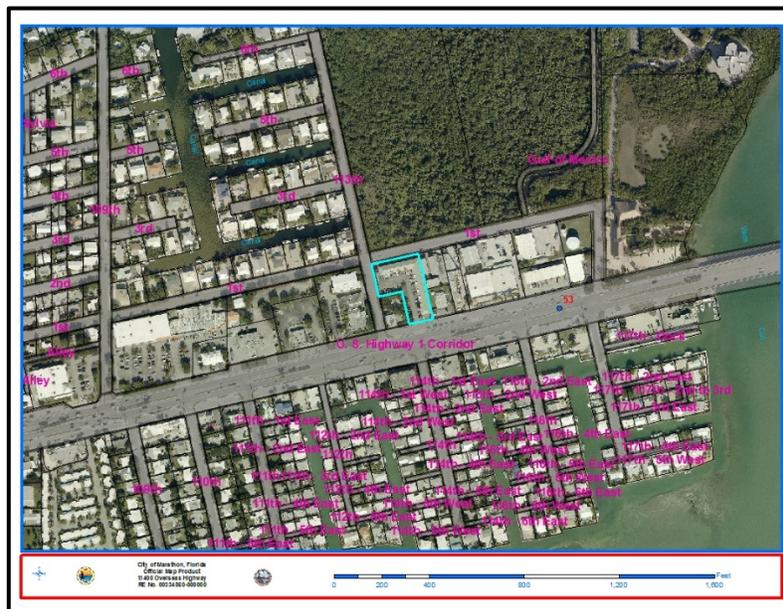
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**APPLICANT/ OWNER:** Midway Specialty Care Center, Inc.

**AGENT:** Read Marathon, LLC

**LOCATION:** The project site is located at 11400 Overseas Highway at nearest mile marker 53. See Figure 1.

**Figure 1**  
**Project Site**



**REQUEST:** A Conditional Use Permit for development of the subject property having the real estate numbers 00334860-000000.

**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**



**LOT SIZE:**

Total acreage 0.97 acres or 42,570 square feet.

**SURROUNDING ZONING AND USES:**

	<u>Zoning</u>	<u>Use</u>
<b>North</b>	Conservation-Native Area and Residential Medium	Key Colony No. 4 Subdivision
<b>East</b>	Mixed Use	Animal Hospital, D'Asign Source, Aquarium, and Key Vaca Bridge
<b>South</b>	Mixed Use and Residential Medium	Curly's Coffee, Capital Bank, and Little Venice Subdivision
<b>West</b>	Mixed Use and Residential Medium	Centennial Bank, Schmitt Bldg, and Key Colony Subdivisions (Plat A, No. 1 & No. 2)

**EXISTING CONDITIONS:**

The project site consists of a developed shopping center, Town Square Mall, real estate number – 00334860-000000. The applicant is seeking to operate as a medical and dental clinic in offices to be located on the first level of the building.

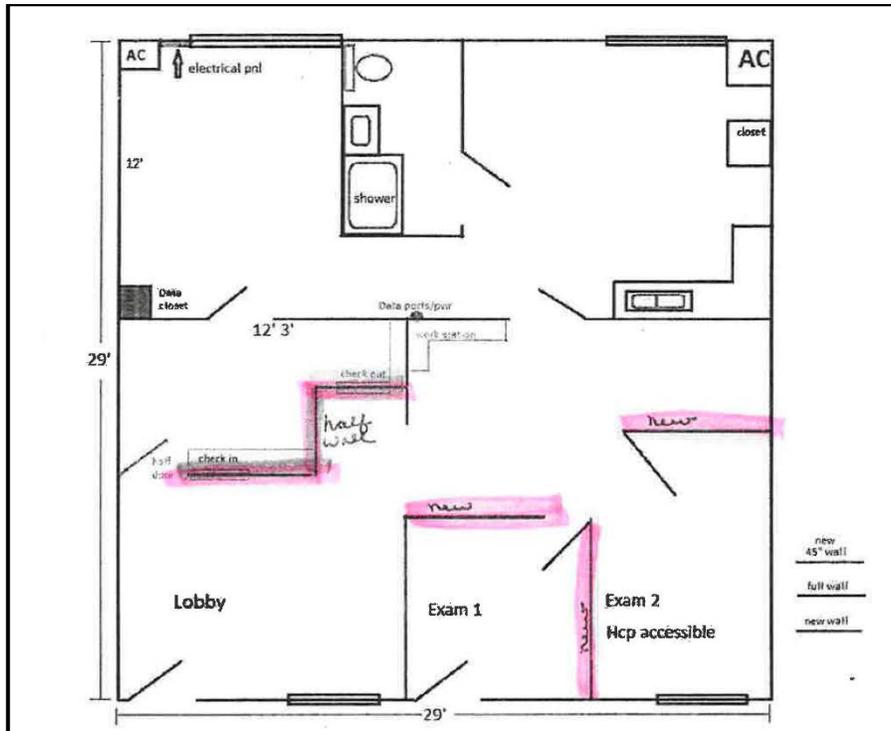
Total Floor Area of Building: 22,069 SF

**PROPOSED REDEVELOPMENT:**

Commercial Floor Area: 900 SF  
Suites #103 & #104

**See Figure 4 for Site Plan layout.**

**Figure 4  
Proposed Redevelopment Site Plan**



**BACKGROUND:**

The proposed project is a redevelopment of existing commercial office space within property and building known as Town Square Mall in order to operate a medical and dental clinic in the Mixed Use zoning classification. This report addresses the request for a Conditional Use Permit.

**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 Permit is outlined in Chapter 102, Article 13, 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 consists of the redevelopment of existing commercial use within the Mixed Use Zoning District. Section 103.15, Table 103.15.2, “Uses By Zoning District,” establishes whether specific uses are allowed as of right, limited, accessory or conditional use permit. That table shows that medical and dental offices and clinics uses are allowed as Conditional Uses in the MU District. Conditional Use Permit 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. Using the property area, the proposed use can have up to 60 percent of Office FAR. Table 103.15.3 further qualifies the allowed range of intensities based on the intensity of retail use.

Development Type	Existing	Proposed Redevelopment	Max Allowed	% Total Area
Commercial Floor Area	22,069 SF	900 SF	25,542 SF*	51.8%

The project consists of redeveloping existing space (FAR) which in total is within the allowed FAR @ 60%.

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 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.” The proposed project includes redevelopment of an existing conditional use (Commercial) into a similar conditional use (medical and dental offices and clinics), which is consistent with the Mixed Use classification.

The existing land use pattern in the project vicinity consists of hammocks to the North, Mixed Use and Residential Medium to the South, Commercial to the east and Commercial and 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 is a redevelopment of an existing use which has not had any known impact to the health, safety and welfare of the public. No new impacts are expected to arise with the redevelopment.

Plans submitted with the project are suitable for the Conditional Use Approval as they relate to Chapter 107, Article 12, 100 Year Floodplain.

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 maps indicate the subject area is designated as Developed Land. A site inspection showed the current conditions as scarified with existing buildings and asphalt parking lot.

The applicant is not required to submit a detailed vegetation plan that is compliant with the landscaping requirements.

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

**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 is not required to submit a breakdown of the proposed occupancy of the onsite buildings.

Ingress and egress to the property is being provided through driveways onto Overseas Highway and 113<sup>th</sup> Street.

The redevelopment of these properties will not require additional fire suppression measures.

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

- All conditions of the Fire Marshall must be met prior to permit issuance. There are no known concerns as this is an existing commercial building.

**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
Medical, dental office Medical Clinic	Table 107.46.1	1 per 200 SF GFA	4 spaces

Section 107.52 includes a requirement that one handicapped space be provided for every 25 spaces required. For four (4) spaces, one (1) 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 Code. The proposed site plan is consistent with the code requirements for parking and aisle width. Additionally, the applicant proposed that the parking for the medical/dental clinic be handled through the existing parking.

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 (1) space for every ten (10) parking spaces, per Section 107.48, which currently exists on site.

Therefore, with the conditions noted above, 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 project consists of redevelopment of two existing commercial use units. No new lighting will be necessary for this project.

Therefore, with conditions, 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;**

**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: This redevelopment will have a de minimis impact on wastewater.
- Water: The Florida Keys Aqueduct Authority currently provides potable water for the facility.
- Solid Waste: Marathon Garbage Service will provide solid waste disposal.
- Surface Water: This redevelopment will have a de minimis impact on surface water.
- Recreation and Open Space: This redevelopment will have a de minimis impact on recreation and open space.
- Roadways: This redevelopment will have a de minimis impact on roadways.
- Educational Facilities: This redevelopment will have a de minimis impact on educational facilities since existing uses are being replaced in kind.

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

- The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for a one year.

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

Table 107.66.1 establishes project boundary buffer standards applicable to the project. The subject parcel is zoned MU and is bordered by properties zoned MU, not requiring a boundary buffer.

Section 107.71 A. requires that parcels with a MU zoning designation provide a Type 1 Streetscape Treatment for all parcels along U.S. 1. The existing landscape plan meets the minimum requirements.

Table 103.15.2 outlines setback requirements in the MU district as follow: front yard 0 – 30’; side yard 1 and 2, 0 – 10; interior side yard, 10; and, street side, 0-5’. Accessory structures, including pools, have a 10’ setback.

Section 107.36 A.1 states that for parcels in the MU district the required interior yard setback may be reduced through the conditional use process. The existing use has an interior setback of 10’, therefore so long as the proposed redevelopment meets all other setback requirements, the interior side setback is allowed at the proposed 10’.

Parking area landscaping is required by Section 107.66 of the Code. The City Biologist has reviewed the submitted parking area landscape plan and has found it to be in compliance with the code.

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. Signs for the project will be reviewed prior to issuance of 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 scarified; therefore, a twenty percent open space requirement applies. For the 42,570 SF parcel, the maximum coverage is 8,514 SF. The applicant proposes 900 SF, which exceeds the open space requirement.

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 long standing existing uses in an area of the City which has been acknowledged as an area suitable for redevelopment. Adjacent uses include a commercial establishment and residential uses. A redevelopment of medical and dental clinic 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 37' as measured from the crown of the roadway or unimproved grade. The site plans show that buildings is within the maximum requirement.

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

**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 a long standing existing commercial use. 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.

**RECOMMENDATION:**

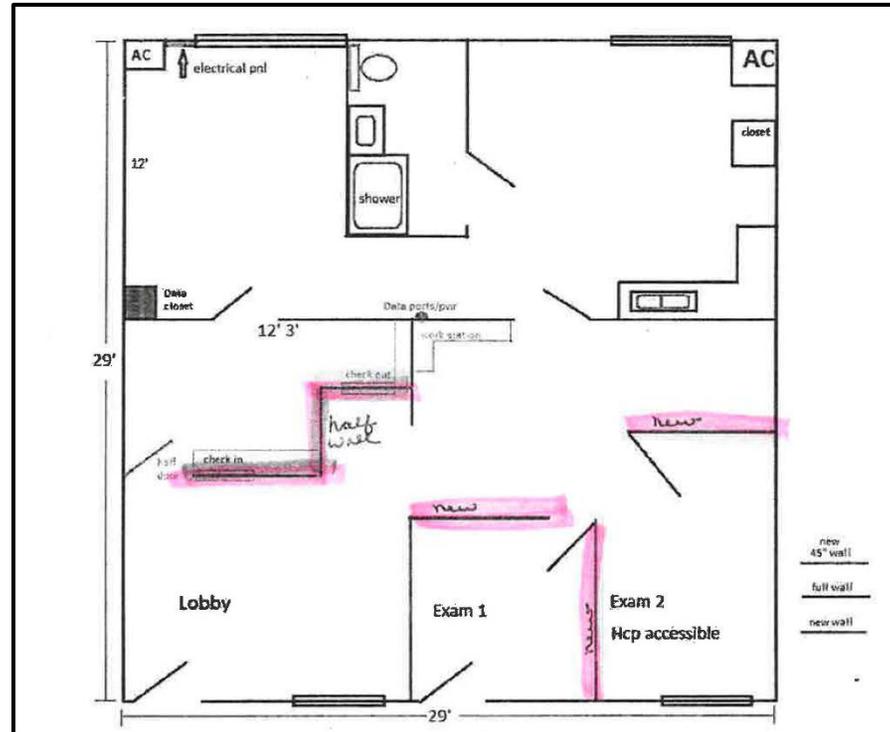
The Planning staff recommends that the Planning Commission forward a recommendation of conditional approval of the medical and dental clinic to the City Council. The proposed conditions of approval are listed below.

Conditions of Approval

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

**Attachments:**

Attachment: Proposed Floor Plan, Midway Specialty Care Center, Inc.



## PLANNING COMMISSION AGENDA STATEMENT



**Meeting Date:** May 20, 2019  
**To:** Honorable Mayor and Council Members  
**From:** George Garrett, Planning Director

**Agenda Item:** **Ordinance 2018-09**, Of The City Of Marathon, Florida, Amending The City's Comprehensive Plan To Modify Or Add To Its Conservation And Coastal Element, Goals Objectives, And Policies To Comply With Florida Statute 163.3178(2)(F) "Peril of Flood"; Intending To Modify, "Purpose;" Goal 4-1, "Conserve, Manage, Use, And Protect Natural And Environmental Resources;" Policy 4-1.3.3, "Surface Water Management And Flood Damage Prevention;" And Objective 4-1.17, "Minimum Coastal Hazards;" And Intending To Add Policies To Include Policy 4-1.17.8, "Strategies For Responding To Sea Level Rise;" Policy 4-1.17.9, "Flood-Resistant Development Requirements;" Policy 4-1.17.10, "Extreme Weather Event Mitigation;" Policy 4-1.17.10, "Best Practices And Mitigation Strategies;" And Policy 4-1.17.11, "Best Practices And Mitigation Strategies;" And Finally, Intending To Modify Objective 4-1.22, "Reduce Exposure To Natural Hazards," Policy 4-1.22.5, "Manage Redevelopment Activities; And Policy 4-1.22.8, "Regulate Redevelopment Of Non-Conforming Structures To The Required Base Flood Elevation;" Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity After The First Hearing By The City Council; And Providing For An Effective Date.

### **RECOMMENDATION:**

Staff Recommends Approval in order to meet the minimum standards of the Perils of Flood requirements promulgated in Section 163.3178(2)(f), Florida Statutes.

**APPLICANT:** City of Marathon

**REQUEST:** Amend City of Marathon Comprehensive Plan in order to bring it into compliance with recent legislative amendments to Section 163.3178(2)(f), Florida Statutes (commonly referred to as the "Peril of Flood" statute).

### **ANALYSIS OF COMPREHENSIVE PLAN CHANGE REQUEST:**

#### **Preface**

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

Section 102.19 simply states:

**Section 102.19. Standards for Review.**

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

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

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

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

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

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

Other pertinent review elements leading to a determination of compliance are found in Chapter 163.3178 Coastal management, Chapter 163.3180 Concurrency and the principals for guiding development in the Florida Keys Area of Critical State Concern. This application for a FLUM amendment will be analyzed against the limited compliance issues found in sections of Chapter 163 F.S. and Chapter 380 F.S. noted immediately above. Relevant sections are provided in EXHIBITS 2, 3, & 4 attached or with website references for your review

### **Compliance Discussion**

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

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

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

## SUMMARY

The University Of Florida Levin College Of Law Conservation Clinic in partnership with Florida land use and environmental attorney Byron Flagg have examined the City of Marathon's Comprehensive Plan for compliance with the Florida "Peril of Flood" statute. As a result, the reviewers recommend that the City of Marathon make minor amendments to its Comprehensive Plan to comply with recent legislative amendments to Section 163.3178(2)(f), Florida Statutes (commonly referred to as the "Peril of Flood" statute). The reviewers recommend minor additions to the City's Conservation and Coastal Element of its Comprehensive Plan to comply with Section 163.3178(2)(f), Florida Statutes. This report and attached draft ordinance (Exhibit B) constitute Deliverables 3.2 and 3.3 of Task 3 under the City's Grant # 1816 from the Florida DEP's Florida Coastal Office, Florida Resilient Coastlines Program.

This report briefly explains the Background & Legislative History of statutory changes to Section 163.3178(2)(f) and the new statutory requirements coastal local governments must now implement. This report also provides the recommended text changes that will bring the City's Comprehensive Plan into compliance and brief legal analysis for each change. The report identifies which sections of the City's current Conservation and Coastal Element already satisfy the new statutory requirements and the report provides additional resources in "Exhibit 3.1" regarding resiliency planning, best practices, and FEMA guidelines for communities that participate in the National Flood Insurance Program's (NFIP) Community Rating System (CRS), as well as a draft ordinance as "Exhibit 3.2" implementing the recommended text changes to the City's Comprehensive Plan.

## BACKGROUND & LEGISLATIVE HISTORY

### A. *The Comprehensive Plan's "Coastal Management" Element*

All of Florida's counties and municipalities are required to adopt local government comprehensive plans that guide future growth and development pursuant to Chapter 163, Florida Statutes, which comprise Florida's *Community Planning Act* and growth management policies. Each local government comprehensive plan must include at least two planning periods (one covering at least the first 5-year period occurring after the plan's adoption and one covering at least a 10-year period). Comprehensive plans contain chapters or "elements" that address future land use, housing, transportation, water supply, drainage, potable water, natural groundwater recharge, coastal management, conservation, recreation and open space, intergovernmental coordination, capital improvements, and public schools. Comprehensive Plans are developed through a public participatory visioning process and then articulated through specific Goals, Objectives, and Policies under each Element.

In addition to these general comprehensive planning requirements under state law, local governments in coastal areas must include a *coastal management element* in their comprehensive plan pursuant to Section 163.3177(6)(g), Florida Statutes. The coastal management element must set forth the principles, guidelines, standards, and strategies that shall guide the local government's decisions and adoption of land development regulations and special issues related to coastal development. In addition, Section 163.3178, Florida Statutes, (entitled *Coastal Management*) requires coastal management comprehensive plan policies to be based on studies, surveys, and

data but also requires coastal planning elements to include a “redevelopment component” which outlines the principles used to eliminate inappropriate and unsafe development in coastal areas.

During the 2015 Florida Legislative Session, the Legislature passed Senate Bill 1094 which was signed into law by the Governor in May, 2015. That law is now commonly referred to as the “Peril of Flood” statute because it addressed new requirements related to flood insurance provisions under Florida Law, required record keeping for certain flood elevation certificates, and also required coastal local governments to include in their comprehensive plans (if they had not already done so), new “development and redevelopment principles, strategies, and engineering solutions” focused on reducing flood risks and flood losses within coastal areas. In general, the statute requires coastal communities to more specifically consider future flood risk in the coastal management element of the comprehensive plan, including consideration of sea level rise.

But prior to Senate Bill 1094 going into effect, Section 163.3178, Florida Statutes was not specific about what aspects of coastal planning a “redevelopment component” must address. Senate Bill 1094 changed that lack of specificity by adding new language aimed at reducing flood risk from natural events including consideration of sea level rise by adding six requirements to a local government’s “redevelopment component.”

The City of Marathon’s coastal management element is combined with its conservation element in Chapter Four of the City’s Comprehensive Plan and is named the “Conservation & Coastal Element.”

## ***B. Senate Bill 1094’s “Redevelopment Component” Requirements***

As a result of Senate Bill 1094’s amendments to Section 163.3178(2)(f), the City of Marathon’s Conservation and Coastal Management Element must include a redevelopment component that now meets the following statutory criteria. Section 163.3178(2)(f) states:

*(f) A redevelopment component that outlines the principles that must be used to eliminate inappropriate and unsafe development in the coastal areas when opportunities arise. The component must:*

- 1. Include development and redevelopment principles, strategies, and engineering solutions that reduce the flood risk in coastal areas which results from high-tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea-level rise.*
- 2. Encourage the use of best practices development and redevelopment principles, strategies, and engineering solutions that will result in the removal of coastal real property from flood zone designations established by the Federal Emergency Management Agency.*
- 3. Identify site development techniques and best practices that may reduce losses due to flooding and claims made under flood insurance policies issued in this state.*
- 4. Be consistent with, or more stringent than, the flood-resistant construction requirements in the Florida Building Code and applicable flood plain management regulations set forth in 44 C.F.R. part 60.*
- 5. Require that any construction activities seaward of the coastal construction control lines established pursuant to s. 161.053 be consistent with chapter 161.*
- 6. Encourage local governments to participate in the National Flood Insurance Program*

*Community Rating System administered by the Federal Emergency Management Agency to achieve flood insurance premium discounts for their residents.*

*C. Florida DEO's, Bureau of Community Planning and Growth Guidance*

The DEO's Bureau of Community Planning has broken the criteria listed above into two parts for consideration:

- 1.) Subsections (1)-(3) above are strategies for implementing a redevelopment component that include programs, activities and land development regulations. According to the Department of Economic Opportunity, it is up to local governments to establish policies that comply with these requirements. The statutory language does not direct explicitly what those requirements are; rather, it is up to communities to determine appropriate plan policy.
- 2.) Subsections (4)-(6) above are easily adoptable as policies that incorporate these requirements in the text of the Coastal Management Element.

Subsections (1)-(3) can be implemented in many ways. At the minimum, language related to all of the six components must appear in the Coastal Management Element with slight tailoring to (1)-(3) to apply to the City of Marathon. As stated in DEO's break down, Subpolicies (4)-(6) can mimic the statutory language without much tailoring to comply with Florida law. The most thorough amendment would go beyond DEO's analysis and not only alter the Coastal Management Element, but also incorporate amendments throughout the entire Comprehensive Plan as appropriate. At this time, the City of Marathon does not require such an elaborate approach and can safely satisfy the statutory requirements by limiting changes to the Coastal Management Element.

Subsection (5), regarding Coastal Construction Control Lines, need not be addressed in the City of Marathon's Comprehensive Plan because no Control Line has been set for this area of Monroe County. Thus, Subsection (5) will not be addressed in this report. However, the recommended changes to the text of the City's Conservation & Coastal Element does mirror the the language in subsection (5) so that it exists in the event coastal construction control lines are established later on.

*D. PURPOSE OF PROPOSED AMENDMENTS TO CITY OF MARATHON'S CONSERVATION & COASTAL ELEMENT*

*E.*

- To bring the City of Marathon into compliance with Florida law, specifically the new statutory requirements codified in Section 163.3178(2)(f).
- To maintain the high-level direction-setting goals, objectives and policies of the City of Marathon's Comprehensive Plan while complying with the specific requirements set forth in §163.3178(2)(f)(1).
- In 2017, Hurricane Irma devastated the City of Marathon, causing tens of millions of dollars in damage. The requirements of the Peril of Flood statute, if implemented throughout the City's Comprehensive Plan and land development regulations and consistently enforced, could lessen the impact on real property and structures from flood-related natural disasters over time.

- The sixth criterion of §163.3178(2)(f) encourages communities to participate in the National Flood Insurance Program Community Rating System (CRS). While Marathon has participated in the program since incorporating in 1999, its current Community Rating is a 6. As a result, this community rating allows residents to currently save 20% on their flood insurance premiums. If the City is able to improve its CRS rating under the National Flood Insurance Program, property owners in Marathon could be eligible for even more savings on flood insurance – the maximum discount reaching up to 45% for communities that implement and enforce land development regulations that reduce flood risk. The highest score in the CRS is 1. Link to: FEMA publication FEMA B 575/2018; *National Flood Insurance Program, Community Rating System, A Local Official’s Guide to Saving Lives, Preventing Property Damage, and Reducing the Cost of Flood Insurance:* [https://www.fema.gov/media-library-data/1535126505943-439b296e7778b037d05f698f65c7891b/2018NFIP\\_CRS\\_Brochure\\_June\\_2018\\_508OK.pdf](https://www.fema.gov/media-library-data/1535126505943-439b296e7778b037d05f698f65c7891b/2018NFIP_CRS_Brochure_June_2018_508OK.pdf)

## ANALYSIS

### Natural Resources

The City of Marathon Comprehensive Plan places significant emphasis on the protection of its environmental resources while protecting the property rights of its citizens. The proposed amendment through the implementation of the existing and these modified Comprehensive Plan and Land Development Regulations has the potential to enhance the protection of natural resources through continued land acquisition and/or development of conservation easements, .

### Historical and Cultural Resources

No Significant Impact would result from the proposed change.

### Infrastructure

Implementation of the Perils of Flood Goals, Objectives, and Policies will lead to the review of the potential to enhance the protection of all of the City’s infrastructure. This will require review of potential threats to the City’s infrastructure, primarily from hurricanes and sea level rise, consider options, prioritize those options, and develop or seek the funding to implement infrastructure improvements.

### Wastewater infrastructure

Implementation of the Perils of Flood Goals, Objectives, and Policies will lead to the review of the potential to enhance the protection of all of the City’s wastewater infrastructure. This will require review of potential threats to the City’s infrastructure, primarily from hurricanes and sea level rise, consider options, prioritize those options, and develop or seek the funding to implement infrastructure improvements.

### Stormwater infrastructure

Implementation of the Perils of Flood Goals, Objectives, and Policies (GOPs) will lead to the review of the potential to enhance the protection of all of the City's stormwater infrastructure. This will require review of potential threats to the City's infrastructure, primarily from hurricanes and sea level rise, consider options, prioritize those options, and develop or seek the funding to implement infrastructure improvements.

### Potable Water

The City will work with the Florida Keys Aqueduct Authority to insure that its infrastructure is well protected from the potential impacts of hurricanes and sea level rise through implementation of the modified GOPs proposed herein.

### Solid Waste

No Significant Impact would result from the proposed change.

### Transportation

The City will work with the Florida Department of Transportation and review the threats to its own streets to insure that its infrastructure is well protected from the potential impacts of hurricanes and sea level rise through implementation of the modified GOPs proposed herein.

### Affordable Housing

No Significant Impact would result from the proposed change.

### Hazard Mitigation

No Significant Impact would result from the proposed change.

### Coastal High Hazard Areas

Implementation of the Perils of Flood revisions will have some, but limited, impact on the City's current enforcement of regulations regarding the Coastal High Hazard Areas (CHHAs as we already heavily regulate development in what are otherwise known as Category 1 surge zones or VE Zones.

### Hurricane Evacuation

No Significant Impact would result from the proposed change. All transient residents would be required to evacuate within the first 24 hours of a 48 hour evacuation window. The City's (and County) obligation is to be prepared to evacuate its permanent population at 24 hours before the impacts of Tropical Storm Force Winds in the Keys.

As sea level rise begins to impact the Florida Keys, the City and County will be required to ensure that roads will not be inundated with tidal waters. This may require elevating collector roads and U.S. Highway 1.

#### Ports – Marina Siting

No Significant Impact would result from the proposed change.

#### Public Use – Access to Water

No Significant Impact would result from the proposed change.

#### Land Acquisition

The proposed amendment will utilize existing land acquisition mechanisms to further the purposes of providing green buffers and shoreline protection from the immediate impacts of high tides, storm surge, and approaching hurricanes..

### **Alternate Compliance Review Criteria**

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

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

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

The University Of Florida Levin College Of Law Conservation Clinic in partnership with Florida land use and environmental attorney Byron Flagg have examined the City of Marathon's Comprehensive Plan for compliance with the Florida "Peril of Flood" statute. As a result, the reviewers recommend that the City of Marathon make minor amendments to its Comprehensive Plan to comply with recent legislative amendments to Section 163.3178(2)(f), Florida Statutes (commonly referred to as the "Peril of Flood" statute). The reviewers recommend minor additions to the City's Conservation and Coastal Element of its Comprehensive Plan to comply with Section 163.3178(2)(f), Florida Statutes. This report and attached draft ordinance (Exhibit B) constitute Deliverables 3.2 and 3.3 of Task 3 under the City's Grant # 1816 from the Florida DEP's Florida Coastal Office, Florida Resilient Coastlines Program.

This report briefly explains the Background & Legislative History of statutory changes to Section 163.3178(2)(f) and the new statutory requirements coastal local governments must now implement. This report also provides the recommended text changes that will bring the City's Comprehensive Plan into compliance and brief legal analysis for each change. The report

identifies which sections of the City's current Conservation and Coastal Element already satisfy the new statutory requirements and the report provides additional resources in "Exhibit 3.1" regarding resiliency planning, best practices, and FEMA guidelines for communities that participate in the National Flood Insurance Program's (NFIP) Community Rating System (CRS), as well as a draft ordinance as "Exhibit 3.2" implementing the recommended text changes to the City's Comprehensive Plan.

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

Statutory modifications to Section 163.3178(2)(f), Florida Statutes require that all Comprehensive Plans for coastal Counties include amendments in compliance with the statutory changes. The City has reviewed its Comprehensive Plan which largely meets the requirements of the Perils of Flood Statute, to create the minimum necessary changes while retaining complete internal consistency of all GOPs.

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

The proposed text amendments furthers the purposes of the LDRs and other City Codes, regulations and actions designed to implement the Comprehensive Plan by providing the mechanism to carry out the requirements of the Perils of Flood Statute.

**CONCLUSION:**

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

**RECOMMENDATION:**

Staff Recommends Approval in order to meet the minimum standards of the Perils of Flood requirements promulgated in Section 163.3178(2)(f), Florida Statutes.

**Sponsored By:** Lindsey  
**Planning Commission Public Hearing Date:** May 20, 2019  
**City Council Public Hearing Date:** May 28, 2019  
tbd  
**Enactment Date:** tbd

**CITY OF MARATHON, FLORIDA  
ORDINANCE 2019-XXX**

**AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING THE CITY’S COMPREHENSIVE PLAN TO MODIFY OR ADD TO ITS CONSERVATION AND COASTAL ELEMENT, GOALS OBJECTIVES, AND POLICIES TO COMPLY WITH FLORIDA STATUTE 163.3178(2)(F), “PERIL OF FLOOD;” INTENDING TO MODIFY, “PURPOSE;” GOAL 4-1, “CONSERVE, MANAGE, USE, AND PROTECT NATURAL AND ENVIRONMENTAL RESOURCES;” POLICY 4-1.3.3, “SURFACE WATER MANAGEMENT AND FLOOD DAMAGE PREVENTION;” AND OBJECTIVE 4-1.17, “MINIMUM COASTAL HAZARDS;” AND INTENDING TO ADD POLICIES TO INCLUDE POLICY 4-1.17.8, “STRATEGIES FOR RESPONDING TO SEA LEVEL RISE;” POLICY 4-1.17.9, “FLOOD-RESISTANT DEVELOPMENT REQUIREMENTS;” POLICY 4-1.17.10, “EXTREME WEATHER EVENT MITIGATION;” POLICY 4-1.17.10, “BEST PRACTICES AND MITIGATION STRATEGIES;” AND POLICY 4-1.17.11, “BEST PRACTICES AND MITIGATION STRATEGIES;” AND FINALLY, INTENDING TO MODIFY OBJECTIVE 4-1.22, “REDUCE EXPOSURE TO NATURAL HAZARDS,” POLICY 4-1.22.5, “MANAGE REDEVELOPMENT ACTIVITIES; AND POLICY 4-1.22.8, “REGULATE REDEVELOPMENT OF NON-CONFORMING STRUCTURES TO THE REQUIRED BASE FLOOD ELEVATION;” PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY AFTER FINAL ADOPTION BY THE CITY COUNCIL; AND PROVIDING FOR AN EFFECTIVE DATE.**

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

**WHEREAS**, Florida Senate Bill 1094, also known as the “Peril of Flood Act,” was signed into law and became effective in 2015 as Section 163.3178(2)(f), Florida Statute; and

**WHEREAS**, the Peril of Flood Act requires each coastal local government to include a redevelopment component in the coastal management element of its comprehensive plan, and

**WHEREAS**, the Peril of Flood Act specifies six aspects of redevelopment that a coastal management element must address to reduce the risk of flood and encourage a local government's participation in the FEMA Community Rating System; and

**WHEREAS**, the Peril of Flood Act included sea level rise as one of the causes of flood risk that must be addressed in the Coastal Management Element of a Comprehensive Plan; and

**WHEREAS**, the City desires to address the Peril of Flood requirements using the findings and recommendations from Bermello, Ajamil, and Partners and the University of Florida, Levin College of Law Conservation Clinic provided to the City as deliverables under Florida DEP's Coastal Office "Resilient Coastlines Program Funding" Grant #1816; and

**WHEREAS**, this ordinance addresses the Peril of Flood requirements within the "Conservation and Coastal Element" of the City's Comprehensive Plan; and

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

**WHEREAS**, this Ordinance, thus passed at its first reading, shall be transmitted to DEO and sister State Agencies for their coordinated Comprehensive Plan review so as to obtain and receive the DEO Objections, Recommendations, and Comments (ORC) prior to final adoption,

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

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

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

**SECTION 2.** Amend the Comprehensive Plan, Chapter 4, Conservation and Coastal Element, "Purpose:"

#### **PURPOSE**

Pursuant to ~~Chapter~~ Sections 163.3177(6)(d)&(g), and 163.3178, F.S., the purpose of the Conservation and Coastal Element is to promote the conservation, use and protection of natural resources as well as to plan for, and where appropriate, restrict development and redevelopment activities where such activities would damage or destroy coastal resources, and protect human life and property ~~and~~ while limiting public expenditures in ~~areas~~ locations that are subject to destruction by natural disaster, high tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea level rise. The Conservation and Coastal Element also includes a redevelopment component that outlines the broad Goals, Objectives and Policy principles that

must be used to eliminate inappropriate and unsafe development in the coastal areas when opportunities arise as mandated by Section 163.3178(2)(f), Florida Statutes.

**SECTION 3.** Amend the Comprehensive Plan, Chapter 4, Conservation and Coastal Element, to include Goal 4-1:

**GOAL 4-1 CONSERVE, MANAGE, USE AND PROTECT NATURAL AND ENVIRONMENTAL RESOURCES**

It is the goal of the City to conserve, manage, use and protect the natural and environmental resources within the City to ensure continued resource availability and environmental quality and to manage development and redevelopment activities to protect coastal resources, protect human life and property and limit public expenditures in areas subject to destruction by natural disasters, flooding, and sea level rise. §163.3177(6)d.2, §163.3177(6)(g) F.S. & 163.3178(2)(f).

**SECTION 4.** Amend the Comprehensive Plan, Chapter 4, Conservation and Coastal Element, to include Policy 4-1.3.3:

**Objective 4-1.3 Protect, Conserve, and Enhance Coastal Resources**

*The City shall protect, conserve and enhance coastal resources, wetlands, water resources, living marine resources, wildlife habitats and other natural resources and the environmental health of Florida Bay, the Atlantic Ocean and all surface and ground waters within its jurisdiction, in order to maintain the economic and social well being of its citizens. The City shall help ensure that the ambient water quality of near shore waters meets or exceeds State standards for Class II Outstanding Florida Waters. §163.3177(6)(d)2.; §163.3177(6)(g)1. And §163.3178(2)(e). F.S.*

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Policy 4-1.3.3 Surface Water Management and Flood Damage Prevention

The City shall continue to maintain surface water management and flood damage prevention regulations. New development and all redevelopment encroaching into the 100 year floodplain shall incorporate elevation and flood protection measures sufficient to protect against the 100 year flood. The City shall maintain consistency with program policies of the National Flood Insurance Program to ensure that it maintains the highest possible rating within the National Flood Insurance Program's Community Rating System. The City shall monitor and implement new cost effective ~~programs~~ development and redevelopment principles, strategies, and engineering solutions for minimizing flood damage resulting from high tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea level rise. Such ~~programs~~ principles, strategies, and engineering solutions may include modifications to construction setback requirements, ~~or~~ othersite design techniques, as well as upgraded building and construction techniques which include resilient construction techniques and increasing "Freeboard" elevation requirements.

**SECTION 5.** Amend the Comprehensive Plan, Chapter 4, Conservation and Coastal Element, to include Objective 4-1.13 and Policy 4-1.13.1:

**Objective 4-1.13 Prioritize and Limit Shoreline Uses**

*The City shall prioritize shoreline uses to limit the specific and cumulative impacts of development and redevelopment, enhance coastal resources and ensure the continued economic viability of the City. §163.3177(6)(g), §163.3178(2)(f) F.S. and §163.3178(2)(g) F.S.*

Policy 4-1.13.1 Shoreline Uses

The City shall continue to maintain Land Development Regulations to establish shoreline land use priorities. These regulations shall categorize water-dependent and water-related land uses, establish permitting criteria and use priorities. Priority shall be given to water dependent uses over water related. Water-dependent and water-related uses shall take priority over uses that are not water-dependent or -related. In conjunction with the development of these regulations, the City shall:

- a. Identify environmentally suitable waterfront areas, using the most up to date data on sea level rise, and recommend strategies for reserving such areas for water-dependent and water-related development sites consistent with estimated need;
- b. Analyze conflicts among existing shoreline uses and recommend strategies for reducing or eliminating such conflicts;
- c. Identify strategies for encouraging appropriate mixed use development that includes water-dependent and water-related uses and is compatible with existing land uses;
- d. Develop strategies to protect the waterfront sites exhibiting Keys Unique Character;
- e. Complete a survey of all other water-dependent uses; and
- f. Complete an inventory of public access points to the beach or shoreline through public and through private lands.

**SECTION 6.** Amend the Comprehensive Plan, Chapter 4, Conservation and Coastal Element, to include Objective 4-1.17 and adding Policies 4-1.17. 8 through 4-1.17.11:

**Objective 4-1.17 Minimum Coastal Hazards**

*The City shall continue to maintain Land Development Regulations which regulate development and redevelopment activities in a manner that minimizes the danger to life and property occasioned by hurricane events, high tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea level rise. §163.3178(2)(f) & §163.3178(2)(h) F.S.*

Policy 4-1.17.8 Strategies for Responding to Sea-level rise

The City will develop strategies for responding to sea-level rise, including consideration of the effects of sea-level rise on potable water sources, saltwater intrusion, septic systems, wastewater treatment facilities and associated systems, the water table, public infrastructure, redevelopment strategies, and affordable housing policies. The City’s planning decisions shall consider and utilize the 1-Foot, 2-Foot, and 3-Foot Sea Level Rise planning horizon projections as established by the Southeast Florida Climate Change Compact’s “Unified Seal Level Rise Projection” report published in October 2015. Those planning horizons are: 1) short term, by 2030, sea level is projected to rise 6 to 10 inches above 1992 mean sea level, 2) medium term, by 2060, sea level is projected to rise 14 to 34 inches above

1992 mean sea level, 3) long term, by 2100, sea level is projected to rise 31 to 81 inches above 1992 mean sea level.

Policy 4-1.17.9 Flood-resistant Development Requirements

All development and redevelopment in the City will be consistent with or more stringent than the flood-resistant construction requirements in the Florida Building Code and applicable floodplain management regulations set forth in 44 C.F.R. part 60. All new development and redevelopment shall incorporate freeboard of at least three feet over minimum Base Flood Elevation as depicted on current FEMA Flood Insurance Rate Maps. The City shall develop and adopt regulations in its Land Development Code to implement this requirement.

Policy 4-1.17.10 Extreme Weather Event Mitigation

The City shall document and maintain maps depicting the extent of flood inundation from extreme high tides (“king tides”), more frequent severe rainfall events, and newly revealed areas at risk of flooding to efficiently target mitigation efforts.

Policy 4-1.17.11 Best Practices and Mitigation Strategies

The City shall utilize best practices and initiate mitigation strategies to reduce the flood risk in coastal areas that result from high tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea level rise by incorporating into its land development regulations where practical and economically feasible, resilient construction technique requirements, promotion of living shorelines, protection of coastal marsh and mangroves, and use of innovative natural material breakwaters to reduce wave energy.

**SECTION 7.** Amend the Comprehensive Plan, Chapter 4, Conservation and Coastal Element, to include Objective 4-1.22, Policy 4-1.22.5 and Policy 4-1.22.8:

**Objective 4-1.22 Reduce Exposure to Natural Hazards**

*The City shall reduce or eliminate exposure of human life and public and private property to natural hazards resulting from high-tide events, storm surge, flash floods, nuisance flooding, stormwater runoff, and the related impacts of sea-level rise, through establishment and update of a Post Disaster Redevelopment Plan. In addition, the City shall develop local plan components including policies for managing recovery operations through a Recovery Task Force. §163.3178(2)(f) F.S.*

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Policy 4-1.22.5 Manage Redevelopment Activities

The City shall manage unanticipated future redevelopment activities necessitated by hurricane events, high-tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea-level rise or other natural disasters through this Plan, the adopted Land Development Regulations and the City Master Plan. Redevelopment in the City will be consistent with or more stringent than the flood-resistant construction requirements in the Florida Building Code and applicable floodplain management regulations set forth in 44 C.F.R. part 60. Furthermore, in the event that coastal construction control lines become established within the City’s

jurisdiction pursuant to Section 161.053, F.S., all construction activities seaward of established coastal construction control lines shall be consistent with Chapter 161, Florida Statutes.

\*\*\*

Policy 4-1.22.8 Regulate Redevelopment of **Non-Conforming** Structures ~~Non-Conforming~~ to the Required Base Flood Elevation

If an existing structure which is non-conforming to the required base flood elevation is substantially damaged (based on the definition in Chapter 161, F.S.) or abandoned, it shall be rebuilt ~~only to the extent that complies with the current Flood Plain Management standards for the affected property.~~ to add freeboard at least three feet over minimum Base Flood Elevation as depicted on current FEMA Flood Insurance Rate Maps. The City shall develop and adopt regulations in its Land Development Code to implement this requirement.

**SECTION 8.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**SECTION 9.** The provisions of this Ordinance constitute a “Comprehensive Plan amendment” as defined by State law. Accordingly, the City Clerk is authorized to forward a copy of this Ordinance to the DCA and other state agencies for review and approval pursuant to Sections 380.05(6) and (11), Florida Statutes.

**SECTION 10.** This Ordinance shall be effective immediately upon approval by Department of Economic Opportunity pursuant to Chapters 163 and 380, Florida Statutes.

**ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, this 28<sup>th</sup> day of May, 2019.**

**THE CITY OF MARATHON, FLORIDA**

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**John Bartus, Mayor**

AYES:

NOES:

ABSENT:

ABSTAIN:

**ATTEST:**

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Diane Clavier, City Clerk

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

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David Migut, City Attorney



## Peril of Flood Compliance Ordinance Memorandum University of Florida Conservation Clinic

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**Date:** Draft Review April 8, 2019

**To:** George Garrett, Planning Director  
David Migut, Esq., City Attorney

**From:** Byron Flagg, Esq.  
Tom Ankersen, Esq., Director, UF Levin College of Law Conservation Clinic  
Brandon Pownall, J.D. Candidate  
Alexandra Mamontoff, J.D. Candidate

**Subject:** DEP Grant 1816 Task 3 Deliverable – Report and Comprehensive Plan Draft Ordinance Amendment For Compliance with the “Peril of Flood” Florida Statute.

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### I. EXECUTIVE SUMMARY

The University of Florida Levin College of Law Conservation Clinic in partnership with Florida land use and environmental attorney Byron Flagg have examined the City of Marathon’s Comprehensive Plan for compliance with the Florida “Peril of Flood” statute. As a result, the reviewers recommend that the City of Marathon make minor amendments to its Comprehensive Plan to comply with recent legislative amendments to Section 163.3178(2)(f), Florida Statutes (commonly referred to as the “Peril of Flood” statute). The reviewers recommend minor additions to the City’s Conservation and Coastal Element of its Comprehensive Plan to comply with Section 163.3178(2)(f), Florida Statutes.

This report briefly explains the Background & Legislative History of statutory changes to Section 163.3178(2)(f) and the new statutory requirements coastal local governments must now implement. This report also provides the recommended text changes that will bring the City’s Comprehensive Plan into compliance and brief legal analysis for each change. The report identifies which sections of the City’s current Conservation and Coastal Element already satisfy the new statutory requirements and the report provides additional resources in “Exhibit A” regarding resiliency planning, best practices, and FEMA guidelines for communities that participate in the National Flood Insurance Program’s (NFIP) Community Rating System (CRS), as well as a draft ordinance as “Exhibit B” implementing the recommended text changes to the City’s Comprehensive Plan.

## II. BACKGROUND & LEGISLATIVE HISTORY

### A. *The Comprehensive Plan's "Coastal Management" Element*

All of Florida's counties and municipalities are required to adopt local government comprehensive plans that guide future growth and development pursuant to Chapter 163, Florida Statutes, which comprise Florida's *Community Planning Act* and growth management policies. Each local government comprehensive plan must include at least two planning periods (one covering at least the first 5-year period occurring after the plan's adoption and one covering at least a 10-year period). Comprehensive plans contain chapters or "elements" that address future land use, housing, transportation, water supply, drainage, potable water, natural groundwater recharge, coastal management, conservation, recreation and open space, intergovernmental coordination, capital improvements, and public schools. Comprehensive Plans are developed through a public participatory visioning process and then articulated through specific Goals, Objectives, and Policies under each Element.

In addition to these general comprehensive planning requirements under state law, local governments in coastal areas must include a *coastal management element* in their comprehensive plan pursuant to Section 163.3177(6)(g), Florida Statutes. The coastal management element must set forth the principles, guidelines, standards, and strategies that shall guide the local government's decisions and adoption of land development regulations and special issues related to coastal development. In addition, Section 163.3178, Florida Statutes, (entitled *Coastal Management*) requires coastal management comprehensive plan policies to be based on studies, surveys, and data but also requires coastal planning elements to include a "redevelopment component" which outlines the principles used to eliminate inappropriate and unsafe development in coastal areas.

During the 2015 Florida Legislative Session, the Legislature passed Senate Bill 1094 which was signed into law by the Governor in May, 2015. That law is now commonly referred to as the "Peril of Flood" statute because it addressed new requirements related to flood insurance provisions under Florida Law, required record keeping for certain flood elevation certificates, and also required coastal local governments to include in their comprehensive plans (if they had not already done so), new "development and redevelopment principles, strategies, and engineering solutions" focused on reducing flood risks and flood losses within coastal areas. In general, the statute requires coastal communities to more specifically consider future flood risk in the coastal management element of the comprehensive plan, including consideration of sea level rise.

But prior to Senate Bill 1094 going into effect, Section 163.3178, Florida Statutes was not specific about what aspects of coastal planning a "redevelopment component" must address. Senate Bill 1094 changed that lack of specificity by adding new language aimed at reducing flood risk from natural events including consideration of sea level rise by adding six requirements to a local government's "redevelopment component."

The City of Marathon's coastal management element is combined with its conservation element in Chapter Four of the City's Comprehensive Plan and is named the "Conservation & Coastal Element."

### *B. Senate Bill 1094's "Redevelopment Component" Requirements*

As a result of Senate Bill 1094's amendments to Section 163.3178(2)(f), the City of Marathon's Conservation and Coastal Management Element must include a redevelopment component that now meets the following statutory criteria. Section 163.3178(2)(f) states:

*(f) A redevelopment component that outlines the principles that must be used to eliminate inappropriate and unsafe development in the coastal areas when opportunities arise. The component must:*

- 1. Include development and redevelopment principles, strategies, and engineering solutions that reduce the flood risk in coastal areas which results from high-tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea-level rise.*
- 2. Encourage the use of best practices development and redevelopment principles, strategies, and engineering solutions that will result in the removal of coastal real property from flood zone designations established by the Federal Emergency Management Agency.*
- 3. Identify site development techniques and best practices that may reduce losses due to flooding and claims made under flood insurance policies issued in this state.*
- 4. Be consistent with, or more stringent than, the flood-resistant construction requirements in the Florida Building Code and applicable flood plain management regulations set forth in 44 C.F.R. part 60.*
- 5. Require that any construction activities seaward of the coastal construction control lines established pursuant to s. 161.053 be consistent with chapter 161.*
- 6. Encourage local governments to participate in the National Flood Insurance Program Community Rating System administered by the Federal Emergency Management Agency to achieve flood insurance premium discounts for their residents.*

### *C. Florida DEO's, Bureau of Community Planning and Growth Guidance*

The DEO's Bureau of Community Planning has broken the criteria listed above into two parts for consideration:

- 1.) Subsections (1)-(3) above are strategies for implementing a redevelopment component that include programs, activities and land development regulations. According to the Department of Economic Opportunity, it is up to local governments to establish policies that comply with these requirements. The statutory language does not direct explicitly what those requirements are; rather, it is up to communities to determine appropriate plan policy.*
- 2.) Subsections (4)-(6) above are easily adoptable as policies that incorporate these requirements in the text of the Coastal Management Element.*

Subsections (1)-(3) can be implemented in many ways. At the minimum, language related to all of the six components must appear in the Coastal Management Element with slight tailoring

to (1)-(3) to apply to the City of Marathon. As stated in DEO's break down, Subpolicies (4)-(6) can mimic the statutory language without much tailoring to comply with Florida law. The most thorough amendment would go beyond DEO's analysis and not only alter the Coastal Management Element, but also incorporate amendments throughout the entire Comprehensive Plan as appropriate. At this time, the City of Marathon does not require such an elaborate approach and can safely satisfy the statutory requirements by limiting changes to the Coastal Management Element.

Subsection (5), regarding Coastal Construction Control Lines, need not be addressed in the City of Marathon's Comprehensive Plan because no Control Line has been set for this area of Monroe County. Thus, Subsection (5) will not be addressed in this report. However, the recommended changes to the text of the City's Conservation & Coastal Element does mirror the the language in subsection (5) so that it exists in the event coastal construction control lines are established later on.

#### *D. PURPOSE OF PROPOSED AMENDMENTS TO CITY OF MARATHON'S CONSERVATION & COASTAL ELEMENT*

- To bring the City of Marathon into compliance with Florida law, specifically the new statutory requirements codified in Section 163.3178(2)(f).
- To maintain the high-level direction-setting goals, objectives and policies of the City of Marathon's Comprehensive Plan while complying with the specific requirements set forth in §163.3178(2)(f)(1).
- In 2017, Hurricane Irma devastated the City of Marathon, causing tens of millions of dollars in damage. The requirements of the Peril of Flood statutes, if implemented throughout the City's Comprehensive Plan and land development regulations and consistently enforced, could lessen the impact on real property and structures from flood-related natural disasters over time.
- The sixth criterion of §163.3178(2)(f) encourages communities to participate in the National Flood Insurance Program Community Rating System (CRS). While Marathon has participated in the program since incorporating in 1999, its current Community Rating is a 6. As a result, this community rating allows residents to currently save 20% on their flood insurance premiums. If the City is able to improve its CRS rating under the National Flood Insurance Program, property owners in Marathon could be eligible for even more savings on flood insurance – the maximum discount reaching up to 45% for communities that implement and enforce land development regulations that reduce flood risk. The highest score in the CRS is 1. Link to: FEMA publication FEMA B 575/2018; *National Flood Insurance Program, Community Rating System, A Local Official's Guide to Saving Lives, Preventing Property Damage, and Reducing the Cost of Flood Insurance*:  
[https://www.fema.gov/media-library-data/1535126505943-439b296e7778b037d05f698f65c7891b/2018NFIP\\_CRS\\_Brochure\\_June\\_2018\\_508OK.pdf](https://www.fema.gov/media-library-data/1535126505943-439b296e7778b037d05f698f65c7891b/2018NFIP_CRS_Brochure_June_2018_508OK.pdf)

### III. TEXT AND ANALYSIS OF AMENDMENTS TO THE CONSERVATION & COASTAL MANAGEMENT ELEMENT

Rather than restate the City's entire Conservation & Coastal Element in this memo, only the locations where recommended changes to Goals, Objectives, and Policies are included below. The recommended additions are in red underlined text while text recommended for deletion is ~~stricken~~. The text in grey boxed paragraphs that follow text amendment recommendations includes the legal analysis and reasoning that supports the proposed changes. The proposed changes are limited to the City of Marathon's Conservation & Coastal Element to satisfy the requirements of the "Peril of Flood" statute, however, the City may wish to consider addressing sea level rise or resiliency planning in other elements of its Comprehensive Plan. If the recommended changes below are adopted, the City of Marathon's Comprehensive Plan will, at a minimum, comply with the "Peril of Flood" act amendments to Section 163.3178(2)(f) discussed above.

# CONSERVATION AND COASTAL ELEMENT GOALS, OBJECTIVES, AND POLICIES

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## PURPOSE

Pursuant to ~~Chapter~~ Sections 163.3177(6)(d)&(g), and 163.3178, F.S., the purpose of the Conservation and Coastal Element is to promote the conservation, use and protection of natural resources as well as to plan for, and where appropriate, restrict development and redevelopment activities where such activities would damage or destroy coastal resources, and protect human life and property ~~and~~ while limiting public expenditures in ~~areas~~ locations that are subject to destruction by natural disaster, high tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea level rise. The Conservation and Coastal Element also includes a redevelopment component that outlines the broad Goals, Objectives and Policy principles that must be used to eliminate inappropriate and unsafe development in the coastal areas when opportunities arise as mandated by Section 163.3178(2)(f), Florida Statutes.

The proposed language clarifies and focusses the intent and purpose of the Conservation and Coastal Element to comply with statutory mandates as well as to identify what specific statutory requirements are implemented.

## GOAL 4-1 CONSERVE, MANAGE, USE AND PROTECT NATURAL AND ENVIRONMENTAL RESOURCES

It is the goal of the City to conserve, manage, use and protect the natural and environmental resources within the City to ensure continued resource availability and environmental quality and to manage development and redevelopment activities to protect coastal resources, protect human life and property and limit public expenditures in areas subject to destruction by natural disasters, flooding, and sea level rise. §163.3177(6)d.2, §163.3177(6)(g) F.S. & 163.3178(2)(f).

This proposal complies with §163.3178(2)(f) generally. These additions to Goal 4-1 which establish the broad policy missions of the Coastal Management Element will provide the necessary emphasis to establish a “redevelopment component” that focuses on reducing or eliminating flood risk. The proposed text additions in the introductory “Purpose” paragraph and in the broad policy language of Goal 4-1 will provide a broad policy foundation for the City of Marathon to enact and implement adaptation and resilience measures.

Policy 4-1.3.3

Surface Water Management and Flood Damage Prevention

The City shall continue to maintain surface water management and flood damage prevention regulations. New development and all redevelopment encroaching into the 100 year floodplain shall incorporate elevation and flood protection measures sufficient to protect against the 100 year flood. The City shall maintain consistency with program policies of the National Flood Insurance Program to ensure that it maintains the highest possible rating within the National Flood Insurance Program's Community Rating System. The City shall monitor and implement new cost effective ~~programs~~ development and redevelopment principles, strategies, and engineering solutions for minimizing flood damage resulting from high tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea level rise. Such ~~programs~~ principles, strategies, and engineering solutions may include modifications to construction setback requirements, ~~or other~~ site design techniques, as well as upgraded building and construction techniques which include resilient construction techniques and increasing "Freeboard" elevation requirements.

This proposal complies with §163.3178(2)(f)(1), (3) & (4). More than 20 states and hundreds of communities require new construction be elevated higher than FEMA requires, which is based on the 100 year flood plain. The practice of requiring greater elevation than FEMA is known as "freeboard." The additional text proposed here is an aspirational goal for the City of Marathon to consider requiring increasing freeboard and other resilient construction techniques in order to minimize flood damage related to sea level rise and other natural disasters. Such practices not only ensure human health and property will remain safe, but may result in an increased community rating system score which in turn saves residents money on FEMA Flood Insurance. When communities go beyond the minimum standards for floodplain management required by the NFIP, the CRS can provide discounts of up to 45 percent off of flood insurance premiums. However, regulations that require new construction techniques may increase costs to property owners so the City must always balance cost-effectiveness with benefit to the community. Which is why the propose language in Policy 4-1.3.3 is aspirational versus mandatory. But by including this proposed language, the City is further meeting the requirements of §163.3178(2)(f). Refer to the Resources Appendix of this Report for more information about resilient construction techniques and strategies.

Other Florida local governments that have adopted Freeboard redevelopment regulations: Escambia County, City of Layton, Palm Beach County, Village of Tequesta, City of Gulf Breeze, City of Milton, Town of Indian Shores, Town of Longboat Key and Pensacola Beach.

FEMA defines "Freeboard" as follows:

"Freeboard is a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of

urbanization of the watershed. Freeboard is not required by NFIP standards, but communities are encouraged to adopt at least a one-foot freeboard to account for the one-foot rise built into the concept of designating a floodway and the encroachment requirements where floodways have not been designated. Freeboard results in significantly lower flood insurance rates due to lower flood risk.”

For communities participating in the NFIP, structures within the Special Flood Hazard Area (SFHA) are subject to floodplain management regulations that create certain construction requirements to minimize flood risk. The Code of Federal Regulations (44 CFR 60.3c2) requires that the lowest floor of a residential structure (including basement), be at or above the Base Flood Elevation (BFE) if located in the SFHA. However, even though freeboard requirements are not required by NFIP, increasing freeboard in land development regulations can be an effective strategy for mitigating flood risk in certain locations.

**Objective 4-1.17**                    **Minimum Minimizes Coastal Hazards**

The City shall continue to maintain Land Development Regulations which regulate development and redevelopment activities in a manner that minimizes the danger to life and property occasioned by hurricane events, high tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea level rise. §163.3178(2)(f) & §163.3178(2)(h) F.S.

This proposal complies with §163.3178(2)(f)(1) & (2).

Policy 4-1.17.8                    Strategies for Responding to Sea-level rise

The City will develop strategies for responding to sea-level rise, including consideration of the effects of sea-level rise on potable water sources, saltwater intrusion, septic systems, wastewater treatment facilities and associated systems, the water table, public infrastructure, redevelopment strategies, and affordable housing policies. The City’s planning decisions shall consider and utilize the 1-Foot, 2-Foot, and 3-Foot Sea Level Rise planning horizon projections as established by the Southeast Florida Climate Change Compact’s “Unified Seal Level Rise Projection” report published in October 2015. Those planning horizons are: 1) short term, by 2030, sea level is projected to rise 6 to 10 inches above 1992 mean sea level, 2) medium term, by 2060, sea level is projected to rise 14 to 34 inches above 1992 mean sea level, 3) long term, by 2100, sea level is projected to rise 31 to 81 inches above 1992 mean sea level.

This proposal complies with §163.3178(2)(f)(3). In 2012, the Southeast Florida Regional Climate Change Compact (the “compact”) published its Inundation Mapping and Vulnerability Assessment which included maps and tables that demonstrating potential vulnerability for 1,2, and 3 foot sea level rise scenarios in the Southeast Florida region covering Monroe, Miami-Dade, Broward, and Palm Beach Counties. This Vulnerability Assessment includes three maps of the City of Marathon. The one foot scenario is predicted to occur between 2040-2070, 2 foot from 2060-2115 and 3 foot from 2075-2150. Uncertainty in the tidal surface and the elevation data is presented on each map in two categories: (1) More likely to be inundated defined as 100-75% certainty of a given location having an elevation below sea level at high tide for a given scenario and (2) Possibly inundated defined as 25-74.9% certainty. The maps and tables of information contained in the 2012 Vulnerability Assessment are intended to be used for Hospitals, Schools, Emergency shelters, Evacuation routes, Marine facilities, value of property impacted, acres of future land planning purposes among the four Compact Counties to begin to identify infrastructure at risk and to develop adaptation strategies and policies for inclusion in the

Regional Climate Action Plan to address these risks with the intent of becoming a more climate-resilient community. The 2012 Vulnerability Assessment urges that more complex modeling is necessary to refine predictive capability of actual inundation. Since this analysis was originally performed just prior to 2012, other Counties have used extreme high tide events that occur in the fall of each year to ground truth select locations for inundation from rising seas. The 2012 Vulnerability Assessment is available here:

<http://southeastfloridaclimatecompact.org/wp-content/uploads/2014/09/vulnerability-assessment.pdf>

In October 2015, the Compact published its updated “Unified Sea Level Rise Projection” and those projections are what are recommended be adopted as the base sea-level rise projections for Marathon in Policy 4-1.17.8 above. These projections can be used to estimate future sea level elevations in Southeast Florida and the relative change in sea level from today to a point in the future. The Compact’s 2015 “Unified Sea Level Rise Projection” report provides a “Guidance for Application” section which contains directions and specific examples of how the projection can be used by local governments, planners, designers and engineers and developers. “This regional projection is offered to ensure that all major infrastructure projects throughout the Southeast Florida region have the same basis for design and construction relative to future sea level.” A copy of the Compact’s 2015 “Unified Sea Level Rise Projection” report is available here: <http://southeastfloridaclimatecompact.org/wp-content/uploads/2015/10/2015-Compact-Unified-Sea-Level-Rise-Projection.pdf>

Because the National Flood Insurance Program has adopted NOAA’s “intermediate-high” sea level rise projection as a base minimum projection for the purposes of CRS credit and meeting CRS prerequisites, NOAA’s “intermediate-high” projection for 2100 (as included in its 2012 report “Global Sea Level Rise Scenarios for the United States National Climate Assessment,” should be the minimum sea level rise projection that the City will use for planning purposes. However, the NFIP CRS permits communities to consider other sea-level rise projections provided that they are equal to or greater than NOAA’s “intermediate-high” projection for year 2100. The Southeast Florida Regional Climate Change Compact’s 2100 sea level rise projections are consistent or greater than the NOAA Intermediate High projection of 3.9 feet.

Policy 4-1.17.9 Flood-resistant Development Requirements

Development and redevelopment in the City will be consistent with or more stringent than the flood-resistant construction requirements in the Florida Building Code and applicable floodplain management regulations set forth in 44 C.F.R. part 60.

This proposal complies with §163.3178(2)(f)(4). As stated by DEO, Subsection 163.3187(2)(f)(4) can be implemented merely by mimicking the statutory language as done here.

Policy 4-1.17.10 Extreme Weather Event Mitigation

The City shall document and maintain maps depicting the extent of flood inundation from extreme high tides (“king tides”), more frequent severe rainfall events, and newly revealed areas at risk of flooding to efficiently target mitigation efforts.

This proposal complies with §163.3178(2)(f)(1), (2), & (3).

Policy 4-1.17.11 Best Practices and Mitigation Strategies

The City shall utilize best practices and initiate mitigation strategies to reduce the flood risk in coastal areas that result from high tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea level rise by incorporating into its land development regulations where practical and economically feasible, resilient construction technique requirements, promotion of living shorelines, protection of coastal marsh and mangroves, and use of innovative natural material breakwaters to reduce wave energy.

This proposal complies with §163.3178(2)(f)(1) & (2).

**Objective 4-1.22                      Reduce Exposure to Natural Hazards**

The City shall reduce or eliminate exposure of human life and public and private property to natural hazards resulting from high-tide events, storm surge, flash floods, nuisance flooding, stormwater runoff, and the related impacts of sea-level rise, through establishment and update of a Post Disaster Redevelopment Plan. In addition, the City shall develop local plan components including policies for managing recovery operations through a Recovery Task Force. §163.3178(2)(f) F.S.

This proposal complies with §163.3178(2)(f)(1).

Policy 4-1.22.5                      Manage Redevelopment Activities

The City shall manage unanticipated future redevelopment activities necessitated by hurricane events, high-tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea-level rise or other natural disasters through this Plan, the adopted Land Development Regulations and the City Master Plan. Redevelopment in the City will be consistent with or more stringent than the flood-resistant construction requirements in the Florida Building Code and applicable floodplain management regulations set forth in 44 C.F.R. part 60. Furthermore, in the event that coastal construction control lines become established within the City’s jurisdiction pursuant to Section 161.053, F.S., all construction activities seaward of established coastal construction control lines shall be consistent with Chapter 161, Florida Statutes.

This proposal complies with §163.3178(2)(f)(1), (4) & (5).

Policy 4-1.22.8 Regulate Redevelopment of Non-Conforming Structures ~~Non-Conforming~~ to the Required Base Flood Elevation

If an existing structure which is non-conforming to the required base flood elevation is substantially damaged (based on the definition in Chapter 161, F.S.) or abandoned, it shall be rebuilt ~~only to the extent that complies with the current Flood Plain Management standards for the affected property.~~ to add freeboard at least three feet over minimum Base Flood Elevation as depicted on current FEMA Flood Insurance Rate Maps. The City shall develop and adopt regulations in its Land Development Code to implement this requirement.

This proposal complies with §163.3178(2)(f)(1), (2), & (3). The freeboard suggested here for redevelopment of substantially damaged structures is consistent with other Florida communities (Escambia County, City of Layton, Palm Beach County, Village of Tequesta, City of Gulf Breeze, City of Milton, Town of Indian Shores, Town of Longboat Key and City of Pensacola Beach). While costly for property owners today, the addition of three feet to a substantially damaged or abandoned structure will increase an improved property's resiliency to storm events while also increasing the potential for an increase in the City's CRS score – which in turn could bring an insurance cost savings to property owners.

IV. SECTION 163.3178(2)(F) STATUTORY REQUIREMENTS ALREADY ADDRESSED IN THE CITY’S CONSERVATION & COASTAL ELEMENT

The City’s current Conservation and Coastal Management Element already addresses some of the statutory mandates required by Section 163.3187(2)(f). Below are provisions already in compliance with the statute and which further the statute’s intent:

Policy 4-1.3.3            Steering development away from danger  
“Directing growth away from VE Flood Zones through Local Mitigation Strategies and the Building Permit Allocation System identified in this Plan;” (Policy 4-1.3.1)

✓ Complies with Fla. Stat. §163.3178(2)(f)(2), (6)

Policy 4-1.3.3            Surface Water Management and Flood Damage Prevention  
The City shall continue to maintain surface water management and flood damage prevention regulations. New development encroaching into the 100 year floodplain shall incorporate elevation and flood protection measures sufficient to protect against the 100 year flood. The City shall maintain consistency with program policies of the National Flood Insurance Program. The City shall monitor new cost effective programs for minimizing flood damage. Such programs may include modifications to construction setback requirements or other site design techniques, as well as upgraded building and construction techniques. **Could actually incorporate language from the proposed revision to Policy 4-1.22.8 as a requirement of ALL development or redevelopment.**

✓ Complies with Fla. Stat. §163.3178(2)(f)(2), (6)

Policy 4-1.3.5            Protect Coastal and Estuarine Environmental Quality and the Shoreline

The City shall continue to maintain Land Development Regulations mandating that the potential impacts of shoreline development be analyzed as part of the development review process..... All development shall: ...

e. Reduce exposure to natural hazards;

✓ Complies with Fla. Stat. §163.3178(2)(f)(1), (3). The language could be emphasized to ensure that sea level rise projections are considered.

Policy 4-1.3.6 Protect, Stabilize and Enhance Shorelines

The City shall continue to maintain Land Development Regulations that stipulate that no native vegetation shall be removed from shorelines without a duly authorized permit. Similarly, criteria shall be included requiring applicants for development along the shoreline to re-vegetate, stabilize and enhance damaged vegetative shorelines by planting native plant species, which:...

b. Offer protection from erosion and flooding;

✓ Complies with Fla. Stat. §163.3178(2)(f)(1)

Policy 4-1.4.8 Shoreline Setback Development Criteria

Minimum coastal construction setbacks in the City shall be established in the Land Development Regulations to protect: ...

d. Structures from the effects of long-term sea level rise;

e. Beaches and shorelines from erosion;

✓ Complies with Fla. Stat. §163.3178(2)(f)(1), (2)

Policy 4-1.5.14 Protect Natural Resources through Development Review

The City shall require development review of all proposed development or redevelopment to prevent unnecessary destruction or inappropriate use of existing natural resources and natural sites. Through the development review process the City shall enforce qualitative and quantitative development criteria consistent with the Plan that governs:

a. The management of surface water;

b. The preservation of open space; ...

✓ Complies with Fla. Stat. §163.3178(2)(f)(1), (2), (6)

Policy 4-1.17.5 Identify Areas Particularly Susceptible to Damage within the CHHA The Local Mitigation Strategy shall identify areas particularly susceptible to damage within the CHHA; including FEMA designated V-zones within the City and repetitive loss areas as defined by FEMA’s analytical model and shall specify procedures for relocating or to replacing public infrastructure away from these locations, where feasible.

✓ Complies with Fla. Stat. §163.3178(2)(f)(2), (3), (6)

Policy 4-1.17.6 Limit Redevelopment in CHHA

The City shall limit redevelopment in areas within the CHHA shown by the Local Mitigation Strategy to be particularly susceptible to repeated damage. Criteria for assessing redevelopment potential for these properties shall be addressed within the Post Disaster Redevelopment Plan, to be prepared pursuant to Policy 4-1.22.3.

✓ Complies with Fla. Stat. §163.3178(2)(f)(2), (3), (6)

Policy 4-1.17.7 Implement General Hazard Mitigation by Restricting the Density/Intensity of Development.

Maximum densities and intensities within the CHHA shall be restricted by the densities and intensities established pursuant to Policy 1-3.2.7, in conjunction with open space requirements also established by Policy 1-3.2.7, of the Future Land Use Element of this Plan. Based upon the findings of the adopted Local Mitigation Strategy, within the Land Development Regulations, densities and intensities permitted within locations indicated by the Local Mitigation Strategy may further be restricted.

✓ Complies with Fla. Stat. §163.3178(2)(f)(2), (3), (6)

V. CONCLUSION AND REFERENCES

This report’s authors recommend that, if the above proposed text amendments are adopted, the City of Marathon will fully comply with the new requirements established by Fla. Stat. §163.3178(2)(f). Not only will the City’s Conservation and Coastal Element comply with Florida law, but would lay the foundation for future changes that would enhance the resiliency of the City of Marathon’s real property and structures to flooding events and potentially increase the City’s CRS rating.

Appendix A  
Resources

As a reference for the proposed changes herein, communities who have already adopted, or are in the process of adopting similar comprehensive plan text amendments to comply with the new “Peril of Flood” requirements of Sect. 163.3178(2)(f), include:

- The Town of Jupiter
- The City of St. Augustine
- Nassau County
- The City of Tampa
- The City of Boynton Beach
- The City of Jacksonville
- The City of Satellite Beach

Publications that provide information about the FEMA FIRP and CRS, as well as information on resilient construction techniques for consideration when reviewing or updating land development regulations. The City may want to consider creating its own publication or information on its website for the public similar to the City of Miami Beach’s publication.

Title	Link
Are You Interested in Building Resiliently? (City of Miami Beach public outreach document).	<a href="https://www.miamibeachfl.gov/wp-content/uploads/2018/02/2.Fact-Sheet-Are-you-Interested-in-Building-Resiliently.pdf">https://www.miamibeachfl.gov/wp-content/uploads/2018/02/2.Fact-Sheet-Are-you-Interested-in-Building-Resiliently.pdf</a>
Building Science Branch, Publications and Training Courses. (FEMA P-787, 5 <sup>th</sup> ed., Sept. 2016). (See Page 41 – provides links to Flood Publications that provide resilient construction and re-construction techniques, strategies, and principles).	<a href="https://www.fema.gov/media-library-data/1476460097383-a315a523cd7a30a1c737b7dd6388400d/FEMA_P787_2016-508.pdf">https://www.fema.gov/media-library-data/1476460097383-a315a523cd7a30a1c737b7dd6388400d/FEMA_P787_2016-508.pdf</a>

Earning Points Towards Savings: Charleston County's CRS Efforts Pay Off for Residents.	<a href="https://www.fema.gov/media-library-data/1458929223895-422368999fc05199fe5b9fb4fd0506dc/17-Earning-Points-Towards-Savings_web.pdf">https://www.fema.gov/media-library-data/1458929223895-422368999fc05199fe5b9fb4fd0506dc/17-Earning-Points-Towards-Savings_web.pdf</a>
A Guide to Flood-Resistant Building Terms. (With links to case studies on effective resilient design). New York Times, January 2017.	<a href="https://www.nytimes.com/2017/01/25/nyregion/a-guide-to-flood-resistant-building-terms.html">https://www.nytimes.com/2017/01/25/nyregion/a-guide-to-flood-resistant-building-terms.html</a>
FEMA – Mitigation Best Practices; Brazoria County Adopts Freeboard Regulation in Combatting Flood Loss	<a href="https://www.fema.gov/media-library-data/1441822561672-254e32a71d6e179b8d32ecfbbb1358d4/08-Brazoria-County-Adopts-Freeboard-Regulation-in-Combatting-Flood-Loss_web.pdf">https://www.fema.gov/media-library-data/1441822561672-254e32a71d6e179b8d32ecfbbb1358d4/08-Brazoria-County-Adopts-Freeboard-Regulation-in-Combatting-Flood-Loss_web.pdf</a>
FEMA - Flood Best Practices	<a href="https://www.fema.gov/media-library-data/1428341274550-533f7424dd8f45f30e997b2f2b593658/Flooding-BPs.pdf">https://www.fema.gov/media-library-data/1428341274550-533f7424dd8f45f30e997b2f2b593658/Flooding-BPs.pdf</a>

Appendix B  
Draft Ordinance