



City of Marathon Planning Commission
Monday November 18, 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 Guillermo Torres, 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 Retail; Located At 10155 Overseas Hwy; Which Is Legally Described As Part Of Government Lot 2 And Bay Bottom South Of And Adjacent Part Government Lot 2, Key Vaca, Having Real Estate Number 00104460-000000, Nearest Mile Marker 52.5.

Item 2: Consideration Of A Request By Tender Loving Care Garden Supply, Inc. For A Conditional Use Permit Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (LDRs) Entitled “Conditional Use Permits”, Seeking The Authorization For Eight Residential Units (4 Duplexes) On A Mixed Use Lot On Property Located At 7537 Overseas Highway, Which Is Legally Described As Section 12, Township 66,

Range 32; Tract A In The Paraiso Estates Subdivsion In Key Vaca, Marathon, Florida; Having Real Estate Number 00343500-000000. Nearest Mile Marker 51.



**City of Marathon
Planning Commission
Monday October 21, 2019
9805 Overseas Hwy
City Hall Council Chambers**

MINUTES

Mike Cinque called the meeting of the Planning Commission to order on Monday, October 21, 2019 at City Hall Council Chambers, 9805 Overseas Hwy. at 5:30 pm.

In attendance: Planning Director George Garrett, Attorney David Migut, Admin Assistant Lorie Mullins and members of the public.

The Pledge of Allegiance was recited.

Migut asked the board to vote for a presiding officer for this meeting.

Dobson nominated Cinque. Leonard seconded. All in favor 4-0.

The roll was called. Mike Cinque-present; Lynn Landry-absent; Pam Dobson-present; Mike Leonard-present; Matt Sexton-present.

Cinque asked for approval of the last meeting minutes.

Leonard moved to approve. Dobson seconded. The roll was called. The minutes were approved 4-0.

Garrett introduced and welcomed new commissioner Matt Sexton.

Item 1 was postponed: Consideration Of A Request For A Conditional Use Permit For Guillermo Torres, 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 Retail; Located At 10155 Overseas Hwy; Which Is Legally Described As Part Of Government Lot 2 And Bay Bottom South Of And Adjacent Part Government Lot 2, Key Vaca, Having Real Estate Number 00104460-000000, Nearest Mile Marker 52.5.

Item 2 was read into the record: A Proposed Ordinance Of The City Of Marathon, Florida, Amending The City Of Marathon's Comprehensive Plan Modifying Chapter One, "Future Land Use," "Table 1-1, Future Land Use Densities And Intensities," And Intending To Modify Policy 1-3.3.4, "Encourage Redevelopment Of Tourist/Resort/Campground Facilities," To Allow Uses Designated As "Permanent RVs" To Be Utilized As "Transient Residential Units" (RV Lots), Meeting All Requirements Of Such Uses, And That Hold No Monetary Value As Transient Units, And Cannot Be Transferred As Transient Units, To Be Allowed On Properties Zoned Residential Mobile Home (R-MH) That Also Allows Permanent Florida Building Code Compliant Residences; 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.

Garrett presented the item with the use of visual aids.

There was a brief discussion on violations of the 180 day time limit and hurricane evacuations.

Cinque opened the meeting to public speakers.

Randy Boldon was sworn in and spoke in favor of the item, adding that the Board of the Park is requesting this Ordinance in order to have legal rights to remove abandoned units.

Cinque commented on the historic Permanent RV designation and the 180 day time limit as being an unenforceable ordinance.

Leonard made a motion to approve the item, Dobson seconded. The roll was called. The motion was approved 4-0.

Item 3 was read into the record: An Ordinance Of The City Of Marathon, Florida, Amending The City's Comprehensive Plan To Modify Comprehensive Plan, Chapter 1, "Future Element, Goal 1-3, "Manage Growth;" Objective 1-3.2, "Regulate Density And Intensity;" Policy 1-3.2.5; "Maximum Height Limitation," Increasing The Maximum Building Height To Forty-Two Feet (42) For Residential Structures To Provide Compensation For Increases In Required Elevations For The New FEMA Firm Maps; Providing That Residential Structure Shall Not Thereby Exceed Three Stories Above Grade; 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.

And Item 4 was read into the record: An Ordinance Of The City Of Marathon, Florida, Amending The City's Land Development Regulations, Chapter 103, Table 103.15.2, "Density, Intensity And Dimensions For Zoning Districts, Chapter 107, Article 5, "Setbacks And Height," Section 107.40, "Maximum Height" And Figure 107.40.1, "Building Height Measurement," Increasing The Maximum Building Height To Forty-Two Feet (42) For Residential Structures To Provide Compensation For Increases In Required Elevations For The New FEMA Firm Maps; Providing That Residential Structures Shall Not Thereby Exceed Three Stories Above Grade; 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.

Garrett presented the item with the use of visual aids.

Leonard made a motion to approve Item 3, Sexton seconded. The roll was called. The motion was approved 4-0.

Dobson made a motion to approve Item 4, Sexton seconded. The roll was called. The motion was approved 4-0.

Item 5: An Ordinance Of The City Of Marathon, Florida, Amending The City’s Land Development Regulations To Modify Chapter 103, Article 3, “Use And Intensity Tables,” Table 103.15.1, “Uses By Zoning District” And Adding A Section To Chapter 104, Article 1, To Be Titled “Permitting Of Residential Units Which Exceed Six (6) Bedrooms” As Defined Therein; Amending Chapter 110 To Provide Related Definitions For Bedrooms; 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.

Garrett presented the item with the use of visual aids.

Dobson started the discussion inquiring as to when the fire department would get involved with a residential structure of that size, the number of applications that have been received for 7+ bedroom homes, and future applications for the same.

Doug Lewis, Building Official, spoke to the Commission, he explained that the ordinance would require the applicant to apply for a Conditional Use permit which would allow the City to add conditions of parking, sprinkling, waste water calculations, etc.

Dobson made a motion to approve the item, Sexton seconded. The roll was called. The motion was approved 4-0.

Motion to adjourn.

Cinque adjourned the meeting at 6:50 p.m.

ATTEST:

Mike Cinque – Planning Commission Acting Chairman

ATTEST:

Lorie Mullins-Administrative Assistant
City of Marathon Planning Department

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: November 18, 2019
To: Planning Commission
From: George Garrett, Planning Director

Agenda Item: Consideration Of A Request For A Conditional Use Permit For Guillermo Torres, 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 Retail; Located At 10155 Overseas Hwy; Which Is Legally Described As Part Of Government Lot 2 And Bay Bottom South Of And Adjacent Part Government Lot 2, Key Vaca, Having Real Estate Number 00104460-000000, Nearest Mile Marker 52.5.

APPLICANT/ OWNER: La Palma 101 Inc. / Guillermo Torres

AGENT: L. Seven Hurley / DDAI

LOCATION: The project is located at 10155 Overseas Highway at approximately mile marker 48.

Figure 1 – Location Map



REQUEST: A Conditional Use Approval for redevelopment of the subject property.

FUTURE LAND USE MAP DESIGNATION:

Mixed Use Commercial (MUC) & Residential Low (RL)

ZONING MAP DESIGNATION:

Mixed Use (MU) and Residential Low (RL)

LOT SIZE:

Total acreage: 291,416 square feet or 6.69 acres consisting of 2.30 acres of Mixed Use (Scarified), 3.73 acres of Residential Low (Mangroves) and approximately 0.66 acres of submerged land (Water). See Figure 1.

SURROUNDING ZONING AND USES:

	<u>Zoning</u>	<u>Use</u>
North	Airport	Airport / General Aviation
East	Public / Residential High	City Utilities Building
South	Residential Low	Mangroves / Ocean
West	Mixed Use / Residential Medium	Commercial Building / Residence

EXISTING CONDITIONS:

The total area of the property in question is 291,416 square feet or 6.69 acres consisting of 2.30 acres of Mixed Use (Scarified), 3.73 acres of Residential Low (Mangroves) and approximately 0.66 acres of submerged land (Water). The property was recently granted a FLUM and Zoning change allowing approximately 2.3 acres of the northerly (adjacent to U.S. 1) portion of the property to be re-FLUM and rezoned as Mixed Use (MU).

The impacts of Hurricane Irma largely destroyed the remaining hardwood forest on the MU portion of the property. The owner cleaned up marine debris that was storm-deposited on the property and removed dead vegetation. The front portion of the site is scarified, filled, and contains several remaining hardwood hammock trees. These will be preserved as landscape material. The remaining approximately 3.73 acres of the property is comprised of mangroves and remains intact. Approximately 0.66 acres is considered submerged land or open water.

PROPOSED REDEVELOPMENT:

The applicant proposes to develop the following in phases:

Market Rate Residential Units	4 units (2 SFR & 1 Duplex unit)
Affordable Residential Units	8 Units (4 Duplex units)
Commercial Floor Area	34,360 square feet including retail and offices

BACKGROUND:

The proposed project involves the development of a previously undeveloped site. Though there was a significant amount of exotic vegetation in the upland portion of the site, the property was vegetated by hardwood forest and mangroves prior to the impact of Hurricane Irma. Mangroves and open water made up the remaining roughly two thirds of the site.

In late 2018, the applicant requested a FLUM and Zoning change for approximately 2.3 acres of the property. The request was granted by the City and approved by the Department of Economic Opportunity in May of 2019.

The Applicant’s intent with regard to the FLUM / Zoning change has been to make the proposal before you today, a mixed use development of commercial and residential. See Figure 2.

Figure 2
La Palma 101 Inc. Site Plan



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 project is located in the Mixed Use Commercial Future Land Use District portion of his property. The remaining piece, mangroves and zoned Residential Low, will be conserved, perhaps adding a boardwalk in the future.

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 consists of redevelopment of existing transient units and commercial uses, which is consistent with the Mixed Use Commercial designation.

The 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”...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 in the Old Town Area.” The proposed project consists of the redevelopment of transient and commercial uses and is consistent with the Mixed Use Zoning District. Section 103.15 determines whether specific uses are allowed as of right, limited, accessory or conditional uses, through Table 103.15.2. That table shows that commercial space in excess of 10,000 square feet in area and residential units in excess of three, must be presented to the Planning Commission and City Council for review and ultimate approval (or modification or denial).

Table 103.15.2 in the Land Development Regulations provides information on density and intensity allowed in the MU district. Table 103.15.3 further qualifies the allowed range of intensities based on the intensity of the specific commercial use. The following table shows the proposed density and intensity for the subject parcels.

La Palma 101 Inc Calculation of Density and Intensity of Proposed Uses					
Use	Gross Floor Area (Proposed)	Zoning	Intensity	FAR	Required Square Footage
Commercial Uses (Retail, Restaurant Marina)	34,360 sf	MU	Medium	0.75*	45,813
Sub Total Allocated Square Footage					45,813
	Units (Proposed)	Zoning	Density		Required Square Footage
Market Rate Residential	4	MU	6 / acre		29,185
Workforce Residential	8	MU	15 / acre		23,232
Sub Total Allocated Square Footage					52,417
Total Allocated Square Footage					98,230
Total Available Site Square Footage					100,188
Remaining Unallocated Square Footage					1,958

* As denoted by Table 103.15.3 of the Land Development Regulations, the FAR for mixed use developments may be increased to .75 if mitigated by the development of affordable/workforce housing. This redevelopment includes a provision for affordable/workforce housing, and is therefore eligible for the increased FAR.

Therefore, it is staff’s opinion that the request is *in compliance* with the requirements of these sections so long as the applicant obtains a Development Agreement.

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 involves the development the development of multi-purpose commercial, professional offices, and twelve residential units, a true mixed use project

The existing land use pattern in the project vicinity consists of the Marathon Airport (zoned Airport (A)), including the General Aviation facility to the north, protected wetlands to the south (zoned Residential Low (RL)); commercial offices & uses to the west; and the City's utility building to the east.

The redevelopment of the site will result in new commercial and residential development and a "fresh" look to the area. There is some residential development on both 101st and 104th Street to the south, but the developer has lined his residential components up with those to ensure compatibility with those neighborhoods. In fact, two of the residences on 104th Street are owned by Mr. Torres and his brother, so the proposed development is doubly intended to ensure a compatible transition of commercial to residential uses.

These improvements are expected to have a positive benefit on the surrounding uses and the City of Marathon.

Therefore, it is staff's opinion that 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 a development of new uses which will have no impact on the health, safety and welfare of the public. No new impacts are expected to arise with the redevelopment.

- The City Fire Marshal reviewed the proposed site plan and has found it adequate for the purpose of conditional use approval.
- Plans submitted with the project are suitable for the Conditional Use Approval as they relate to Chapter 107, Article 12, 100 Year Floodplain. Full and final review of floodplain compliance will occur as part of building permit issuance. The Applicant has been advised about the adoption of the new FEMA flood maps and the potential impacts of the changes in flood maps on their project.

Plans submitted with the project are suitable for the Conditional Use Approval as they relate to Chapter 107, Article 12, 100 Year Floodplain. Full and final review of floodplain compliance will occur as part of building permit issuance. See Figure 3.

Figure 3
Current FEMA FIRM Maps (2005)



Therefore, it is staff's opinion that the request is ***in compliance*** with the requirements of these sections, so long as the applicant complies with requirements of the City Fire Marshal.

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 impacts of Hurricane Irma largely destroyed the remaining hardwood forest on the MU portion of the property. The owner cleaned up marine debris that was storm-deposited on the property and removed dead vegetation. The front portion of the site is scarified, filled, and contains several remaining hardwood hammock trees. These will be preserved as landscape material. The remaining approximately 3.73 acres of the property is comprised of mangroves and remains intact. Approximately 0.66 acres is considered submerged land or open water. See Figure 4

Figure 4
Habitat – Post Hurricane Irma



The front several hundred feet of the property is currently scarified with some remaining hardwood hammock trees. These will be preserved as part of project landscaping. However, in the overall history of the property, the front portion has had a hardwood hammock with some exotic infiltration. This is exhibited in the FEMA-FWS maps of the site pre-Hurricane Irma. Location of this property on these maps requires additional habitat protection as prescribed under the resolution of the FEMA-FWS lawsuit and as recognized in the requirements of the City’s Floodplain Management Ordinance. At this juncture, this will mean ensuring the protection of the mangroves which lie in the portion of the property designated as Residential Low (RL). A protective covenant will be required for this portion of the project site. See Figure 5.

Figure 5
 FEMA-FWS Species Focus Area (SFA) Maps Pre Hurricane Irma



The City expects positive impacts on water quality resulting from required stormwater improvements to the site, which are expected to 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.

The project will be required to connect to the City’s wastewater treatment system so that potential wastewater impacts will be eliminated.

Finally, site landscaping will consist of 75% native species, per Chapter 107, Article 8. The native vegetation will improve the environmental quality of the site and reduce irrigation needs.

Therefore, it is staff’s opinion that the request is ***in compliance*** with the requirements of these sections so long as the development is conditioned on provision of:

- Conservation easement for the site mangrove area, subject to City approval;
- Final stormwater plans subject to City approval;
- Final wastewater plans, including engineering and projected wastewater flows, subject to City approval; and
- Final landscaping and mitigation plans subject to approval of the City Biologist.

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 proposed development will not alter the entrance to the site from U.S. Highway 1. In fact, access will occur exclusively from 101st and 104th Streets.

Section 107.43 requires site triangles where the access drive intersects with the street. Clear site triangles must be shown on the site plan at time of building permit issuance. In addition, the City is requesting a five (5) foot easement on the 101st Street side to allow additional street width for vehicles entering 101st Street and entering U. S. Highway 1.

As required, a Level 3 traffic study was submitted and reviewed by the City for consistency with the Code. The pre and post development uses are accurately represented. The report shows a daily addition of a total of 330 weekday trips with 45 AM trips and 40 PM trips expected. The level of service availability far exceeds the additional trip load created by the potential development of this project.

The City Fire Marshal has reviewed the proposed development plans and circulation is acceptable.

Therefore, it is staff's opinion that the request is *in compliance* with the requirements of these sections.

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

Parking requirements are outlined in Section 107.46 (Parking Schedule). The following table shows the parking requirement for both the transient hotel units and commercial uses on the parcel:

Section 107.52 includes a requirement that one handicapped space be provided for every 25 spaces required. For 51 required spaces, two handicapped spaces are required. Two are provided. Parking space sizes are 9' x 18' for 90 degree parking, and handicapped spaces are 12' x 21' as required by Code.

The Code also requires bicycle parking to be provided for educational facilities, multifamily dwellings, commercial, institutional and industrial uses, as well as all developments adjacent to a bike path, at a rate of one space for every ten parking spaces, per Section 107.48. The developer has provided two bike racks for the project; one that is at the entrance to the development accessible via a connection to the City bike path and one near the residential area.

Use	Code Citation	Requirement	Spaces Required
Market Rate	107.46	2 per Residence	8
Affordable	107.46	2 per Residence	16
Mixed Use Development (Restaurant, retail)	107.47	1 per 500 square feet GFA	70
Commercial ADA		1 per 25 Spaces	3
Total Required			96
Total Provided			96

Therefore, it is staff’s opinion that 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 the redevelopment of transient and commercial uses that are compatible with surrounding uses. No detrimental noise, glare or odors are expected to be generated by any of the uses.

Therefore, it is staff’s opinion that 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. This item will be addressed at the time of building permit issuance.

Therefore, it is staff’s opinion that the request is *in compliance* with the requirements of this section.

5. Utilities, with reference to location and availability;

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

- Wastewater: The applicant will provide wastewater and sewage collection and disposal via the City’s sewer system.
- Water: The Florida Keys Aqueduct Authority will provide potable water for the facility. There is a 12” water main in front of the property on US 1 that the FKAA believes is adequate to service the project.

- 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: Onsite recreation facilities will be provided for guests and residents of the proposed development.
- Roadways: The applicant has submitted an appropriate Level 3 Traffic Study. The proposed development is within the reserve capacity of US 1.
- Educational Facilities: This redevelopment will have a de minimis impact on educational facilities.

Therefore, it is staff's opinion that the request is *in compliance* with the requirements of these sections, if the following conditions are associated with the project:

- City approval is required for the stormwater management system prior to Building Permit Approval.
- City approval is required for the wastewater collection and transmission system connecting to the City's sewer prior to Building Permit Approval.
- The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.

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

Table 107.66 establishes project boundary buffer standards applicable to the project. The project is zoned MU. The property is bordered to the north by U.S. Highway 1 and across the highway by the airport; to the west by a parcel that is similarly zoned as MU; to the east by a parcel zoned Public (P) and Residential High (RH). To the south, the proposed development site is bordered by mangroves in an area zoned Residential Low (RL). Accordingly, U.S. Highway 1, District Boundary Buffers and parking landscape buffers are required and have been sufficiently met in the current Site Plan

Therefore, it is staff's opinion that the request is *in compliance* with the requirements of these sections, if a condition is placed on the approval requiring:

- Final landscape plans to be submitted to the City and approved by the City Biologist prior to building permit issuance.

7. 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. The applicant has submitted a lighting plan that appears to be consistent with the requirements, and which provides lighting which is appropriate for the proposed development. 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, it is staff's opinion that the request is *in compliance* with the requirements of these sections if sign permits and lighting plan approvals are obtained prior to building permit issuance.

8. Required yards and other open space;

Section 106.16 established required open space for the project. The site is proposed for development is scarified; therefore, a twenty percent open space requirement applies. According to calculations provided by the applicant, the site plan exceeds the required open space, most particularly in the required landscape areas and the mangrove area to the south.

Therefore, it is staff's opinion that the request is *in compliance* with the requirements of these sections.

9. General compatibility with surrounding properties; and

Therefore, it is staff's opinion that 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.

Therefore, it is staff's opinion that 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 project consists of the redevelopment of parcels that have been historically used for both transient and commercial purposes. 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:

Planning staff recommends that the Planning Commission forward a recommendation of conditional approval of the development of the Sundance Resort and Marina to the City Council. Planning Staff recommends that the Conditional Use be considered separately from the Variance request. The proposed conditions of approval are listed below.

Conditions of Approval

- 1) The applicant will obtain approval of final landscaping, bufferyard, parking landscaping, and mitigation plans (as needed) and lighting plans in coordination with the City Biologist prior to building permit issuance;
- 2) Conservation easement for the site mangrove area, subject to City approval;
- 3) The applicant will provide fire protection plans in accordance with fire protection requirements as outlined by the City Fire Marshal;
- 4) Plans submitted with the project are suitable for the Conditional Use Approval as they relate to Chapter 107, Article 12, 100 Year Floodplain. Full and final review of floodplain compliance will occur as part of building permit issuance. The Applicant has been advised about the adoption of the new FEMA flood maps and the potential impacts of the changes in flood maps on their project.
- 5) The applicant will obtain City approval of the stormwater management system prior to Building Permit issuance;
- 6) The applicant will provide on-site plans for the collection and disposal of wastewater via a connection to the City's sewer system. All engineering and wastewater flow calculations must be approved by the City Utility Department prior to final permitting and all wastewater fees must be paid prior to the issuance of construction permits.
- 7) The applicant will provide fully enclosed and screened dumpster areas for both the residential and commercial components of the project pursuant to Section 107.39;
- 8) The applicant will obtain any required permits from SFWMD and FDOT prior to building permit issuance;
- 9) The applicant will obtain sign permits for any signs erected on the property, as required under the Code;
- 10) The Conditional Use Development Order will constitute the Certificate of Concurrence for the project. The determination will be valid for one year.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA APPROVING A REQUEST FOR A CONDITIONAL USE PERMIT FOR GUILLERMO TORRES, 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 RETAIL; LOCATED AT 10155 OVERSEAS HWY; WHICH IS LEGALLY DESCRIBED AS PART OF GOVERNMENT LOT 2 AND BAY BOTTOM SOUTH OF AND ADJACENT PART GOVERNMENT LOT 2, KEY VACA, HAVING REAL ESTATE NUMBER 00104460-000000, NEAREST MILE MARKER 52.5.

WHEREAS, Guillermo Torres, d/b/a La Palma 101 Inc. (the “Applicant”) is the owner of the Property in question (RE No 00104460-000000) and applied for a Conditional Use Permit to construct a mixed use development on the subject property,, including 24,280 square feet of commercial space, eight (8) residential units of affordable housing, and four (4) residential units of market rate housing on property located in the Mixed Use (MU) land use district (the “Application”); and

WHEREAS, on the 18th day of November, 2019, the City of Marathon (the “City”) Planning Commission (the “Commission”) and on the 10th day of December, 2019, the City Council (the “Council”) conducted properly advertised public hearings (the “Public Hearings”) regarding the request submitted by Guillermo Torres, d/b/a La Palma 101 Inc. (the “Applicant”), for a conditional use permit pursuant to Chapter 102, Article 13 of the City Code (the “Code”); and

WHEREAS, the Planning Commission (Commission), in accordance with the provisions of Sections 101.02 and 102.75 of the City of Marathon Land Development Regulations, met to review the Application to determine its compliance with the applicable regulations on November 18, 2019; and

WHEREAS, the Commission recommended approval of the Application to the City Council (the “Council”), subject to conditions; and

WHEREAS, the Council of the City of Marathon, Florida, in accordance with the provisions of Sections 101.01 and 102.76 of the City of Marathon Land Development Regulations, met to review the Application to determine its compliance with the City’s Comprehensive Plan and Land Development Regulations on December 10, 2019; and

WHEREAS, the Council has duly considered the recommendation of the Commission, and the information and documentary evidence submitted by Guillermo Torres, d/b/a La Palma 101 Inc., the comments of the general public present, and does hereby find and determine as provided below:

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

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

Section 2. The City Council hereby approves Development Order 2019-15, a copy of which is attached hereto as Exhibit “A”, granting a Conditional Use to Guillermo Torres, d/b/a La Palma 101 Inc. for the proposed use. The Director of Planning is authorized to sign the development order on behalf of the City.

Section 3. This resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED by the City Council of the city of Marathon, Florida, this 10th day of December, 2019.

THE CITY OF MARATHON, FLORIDA

Steve Cook, Mayor

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

Diane Clavier
City Clerk

(City Seal)

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

David Migut, City Attorney

DRAFT



**CITY OF MARATHON, FLORIDA
CONDITIONAL USE
DEVELOPMENT ORDER # 2019-15**

A DEVELOPMENT ORDER OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA APPROVING A REQUEST FOR A CONDITIONAL USE PERMIT FOR GUILLERMO TORRES, 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 RETAIL; LOCATED AT 10155 OVERSEAS HWY; WHICH IS LEGALLY DESCRIBED AS PART OF GOVERNMENT LOT 2 AND BAY BOTTOM SOUTH OF AND ADJACENT PART GOVERNMENT LOT 2, KEY VACA, HAVING REAL ESTATE NUMBER 00104460-000000, NEAREST MILE MARKER 52.5.

WHEREAS, Guillermo Torres, d/b/a La Palma 101 Inc. (the “Applicant”) is the owner of the Property in question (RE No 00104460-000000) and applied for a Conditional Use Permit to construct a mixed use development on the subject property,, including 24,280 square feet of commercial space, eight (8) residential units of affordable housing, and four (4) residential units of market rate housing on property located in the Mixed Use (MU) land use district (the “Application”); and

WHEREAS, on the 18th day of November, 2019, the City of Marathon (the “City”) Planning Commission (the “Commission”) and on the 10th day of December, 2019, the City Council (the “Council”) conducted properly advertised public hearings (the “Public Hearings”) regarding the request submitted by Guillermo Torres, d/b/a La Palma 101 Inc. (the “Applicant”), for a conditional use permit pursuant to Chapter 102, Article 13 of the City Code (the “Code”); and

WHEREAS, the Planning Commission (Commission), in accordance with the provisions of Sections 101.02 and 102.75 of the City of Marathon Land Development Regulations, met to review the Application to determine its compliance with the applicable regulations on November 18, 2019; and

WHEREAS, the Commission recommended approval of the Application to the City Council (the “Council”), subject to conditions; and

WHEREAS, the Council of the City of Marathon, Florida, in accordance with the provisions of Sections 101.01 and 102.76 of the City of Marathon Land Development Regulations, met to review the Application to determine its compliance with the City’s Comprehensive Plan and Land Development Regulations on December 10, 2019; and

WHEREAS, the Council has duly considered the recommendation of the Commission, and the information and documentary evidence submitted by Guillermo Torres, d/b/a La Palma 101 Inc.,

the comments of the general public present, and does hereby find and determine as provided below:

FINDINGS OF FACT:

1. The applicant is proposing to develop 34,360 square feet of mixed use commercial, including professional offices, retail space, exercise facilities, and meeting areas for weddings and other gatherings; four (4) market rate residential units; and eight (8) workforce housing residential units.
2. In accordance with Section 102.77 of the Code, the Commission and Council considered and determined the Applicant met the following criteria:
 - a. The proposed use is consistent with the Comprehensive Plan and LDRs;
 - b. The proposed use is compatible with the existing land use pattern and future uses designated by the Comprehensive Plan;
 - c. The proposed use shall not adversely affect the health, safety, and welfare of the public; and
 - d. The proposed conditional use minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment; and
 - e. Satisfactory provisions and arrangements have been made concerning the following matters, where applicable:
 1. Ingress and egress to the property and proposed structures thereon with particular reference to automotive, bicycle, and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;
 2. Off-street parking and loading areas where required, with particular attention to item 1 above;
 3. The noise, glare or odor effects of the conditional use on surrounding properties;
 4. Refuse and service areas, with particular reference to location, screening and Items 1 and 2 above;
 5. Utilities, with reference to location and availability;
 6. Screening and buffering with reference to type, dimensions and character;
 7. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety and compatibility with surrounding properties;
 8. Required yards and other open space;
 9. General compatibility with surrounding properties; and

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

CONDITIONS IMPOSED:

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

Conditions of Approval

- 1) The applicant will obtain approval of final landscaping, bufferyard, parking landscaping, and mitigation plans (as needed) and lighting plans in coordination with the City Biologist prior to building permit issuance;
- 2) Conservation easement for the site mangrove area, subject to City approval;
- 3) The applicant will provide fire protection plans in accordance with fire protection requirements as outlined by the City Fire Marshal;
- 4) Plans submitted with the project are suitable for the Conditional Use Approval as they relate to Chapter 107, Article 12, 100 Year Floodplain. Full and final review of floodplain compliance will occur as part of building permit issuance. The Applicant has been advised about the adoption of the new FEMA flood maps and the potential impacts of the changes in flood maps on their project.
- 5) The applicant will obtain City approval of the stormwater management system prior to Building Permit issuance;
- 6) The applicant will provide on-site plans for the collection and disposal of wastewater via a connection to the City's sewer system. All engineering and wastewater flow calculations must be approved by the City Utility Department prior to final permitting and all wastewater fees must be paid prior to the issuance of construction permits.
- 7) The applicant will provide fully enclosed and screened dumpster areas for both the residential and commercial components of the project pursuant to Section 107.39;
- 8) The applicant will obtain any required permits from SFWMD and FDOT prior to building permit issuance;
- 9) The applicant will obtain sign permits for any signs erected on the property, as required under the Code;
- 10) The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.

VIOLATION OF CONDITIONS:

The applicant understands and acknowledges that it must comply with all of the terms and conditions herein, and all other applicable requirements of the City or other governmental agencies applicable to the use of the Property. In accordance with the Code, the Council may revoke this approval upon a determination that the Applicant or its successor or designee is in non-compliance with this Resolution or Code. Failure to adhere to the terms and conditions of approval contained herein is a violation of the Code and persons found violating the conditions shall be subject to the penalties prescribed therein.

CONCLUSIONS OF LAW:

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

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

EFFECTIVE DATE:

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

Date

George Garrett
Director of Planning

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

Diane Clavier, City Clerk

NOTICE

Under the authority of Section 102.79(c) of the City of Marathon Land Development Regulations, this development order shall become null and void with no further notice required by the City, unless

a business license has been issued for the use or a complete building permit application for site preparation and building construction with revised plans as required herein is submitted to the City of Marathon Building Official within one (1) year from the date of conditional use approval, or the date when the Department of Community Affairs waives its appeal and all required certificates of occupancy are procured with three (3) years of the date of this development order is approved by the City Council.

In addition, please be advised that pursuant to Chapter 9J-1, Florida Administrative Code, this instrument shall not take effect for forty-five (45) days following the rendition to the Florida Department of Economic Opportunity. During that forty-five days, the Florida Department of Economic Opportunity may appeal this instrument to the Florida Land and Water Adjudicatory Commission, and that such an appeal stays the effectiveness of this instrument until the appeal is resolved by agreement or order.

CERTIFICATE OF SERVICE

A true and correct copy of the above and foregoing Resolution was furnished, via U.S. certified mail, return receipt requested, addressed to _____,
this ___ day of _____, 2019.

Diane Clavier City Clerk

PLANNING COMMISSION AGENDA STATEMENT



Meeting Date: November 18, 2019

From: George Garrett, Planning Director

Agenda Item: Consideration Of A Request By Tender Loving Care Garden Supply, Inc. For A Conditional Use Permit Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (LDRs) Entitled “Conditional Use Permits”, Seeking The Authorization For Eight Residential Units (4 Duplexes) On A Mixed Use Lot On Property Located At 7537 Overseas Highway, Which Is Legally Described As Section 12, Township 66, Range 32; Tract A in the Paraiso Estates Subdivision in Key Vaca, Marathon, Florida; Having Real Estate Number 00343500-000000. Nearest Mile Marker 51.

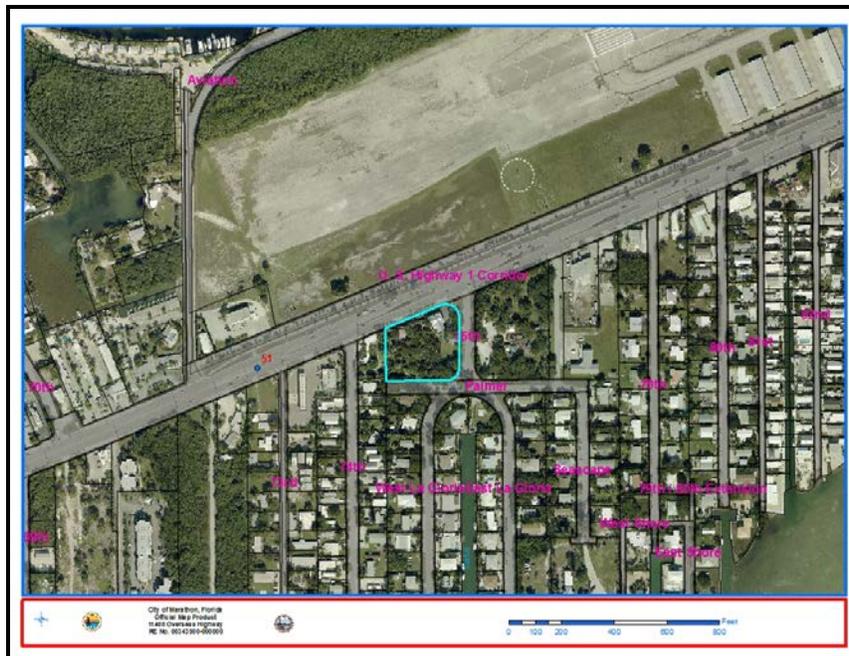
APPLICANT/OWNER: Mr. Claude Halioua

AGENT: L. Steven Hurley

LOCATION: The subject property is located on 7537 Overseas Highway, nearest Mile Marker 51 and is legally described as Tract A, Paraiso Estates, Key Vaca, Marathon, Monroe County, Florida, Having Real Estate Number 00343500-000000

ADDRESS: 7537 Overseas Highway

Location Map

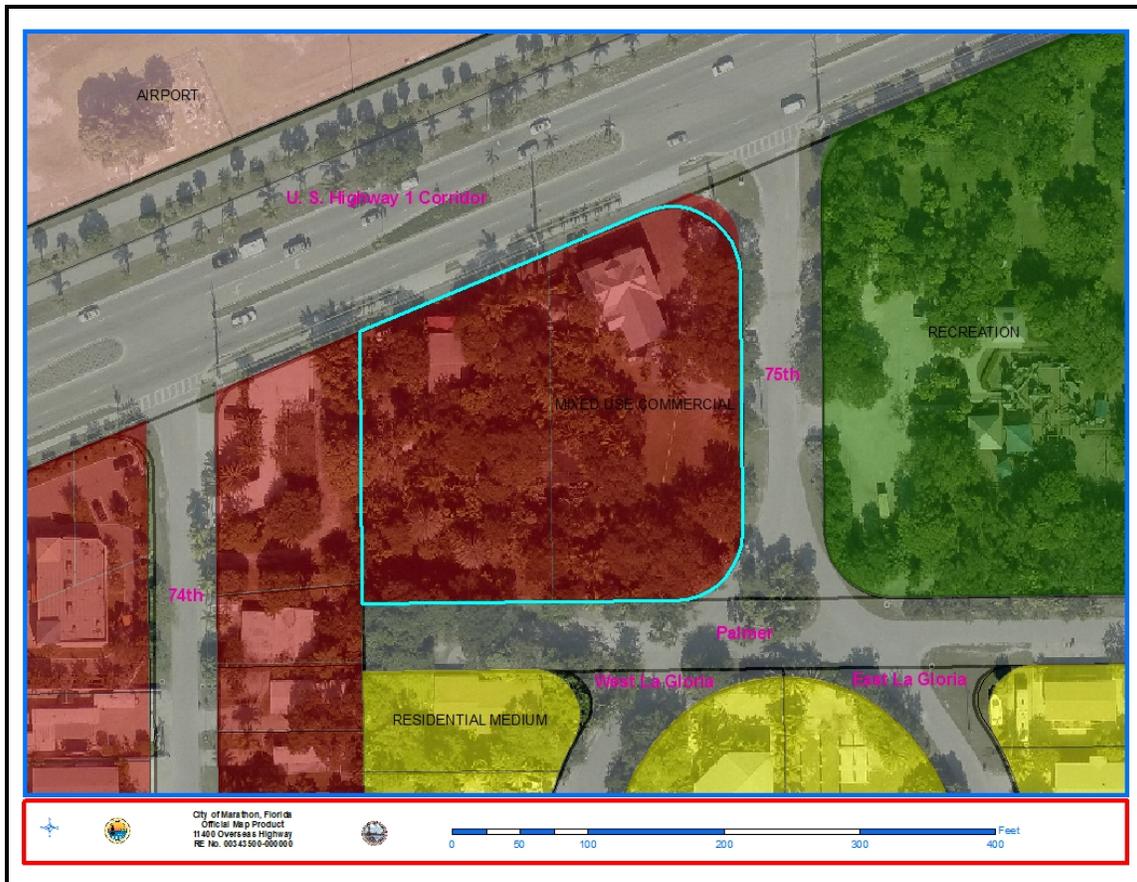


REQUEST: A Conditional Use Permit for the authorization of development of the subject property having real estate number 00343500-000000.

LOT AREA: The aggregated size of the parcels is approximately 1.61 (70,233 sq./ft.)

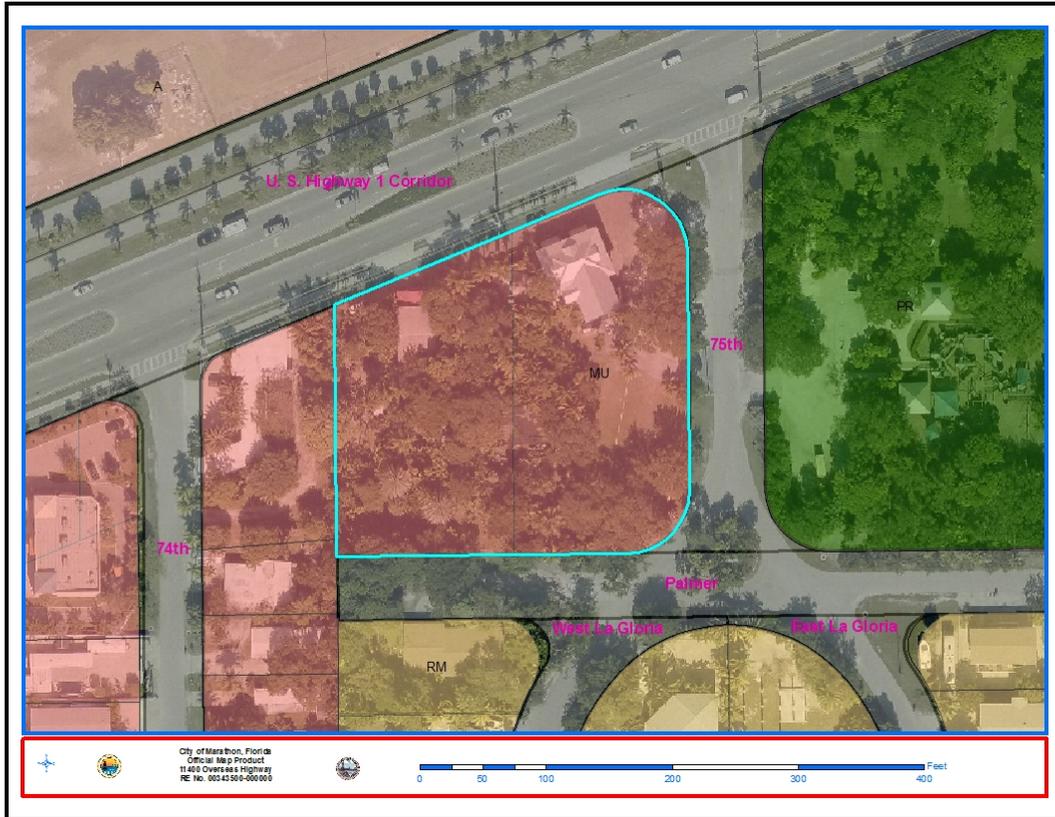
FUTURE LAND USE MAP DESIGNATION: Mixed Use Commercial (MU-C). See Figure 2.

Figure 2
Future Land Use Map



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

Figure 3
Zoning Map



LOT SIZE:
Total acreage 1.61 acres or 70,233 square feet.

SURROUNDING ZONING AND USES:

	<u>Zoning</u>	<u>Use</u>
North	U.S. 1 Corridor Airport	MTH Airport
East	Public Recreation, Mixed Use Residential Medium	Rotary Park, Mile Marker Party Rental & Atlantic Shores Subdivision
South	Residential Medium	Seascape Villas & Paraiso Estates Subdivisions
West	Mixed Use Residential High & RM-H	Tropicana & Reimanns Fields Subdivisions & Keys RV

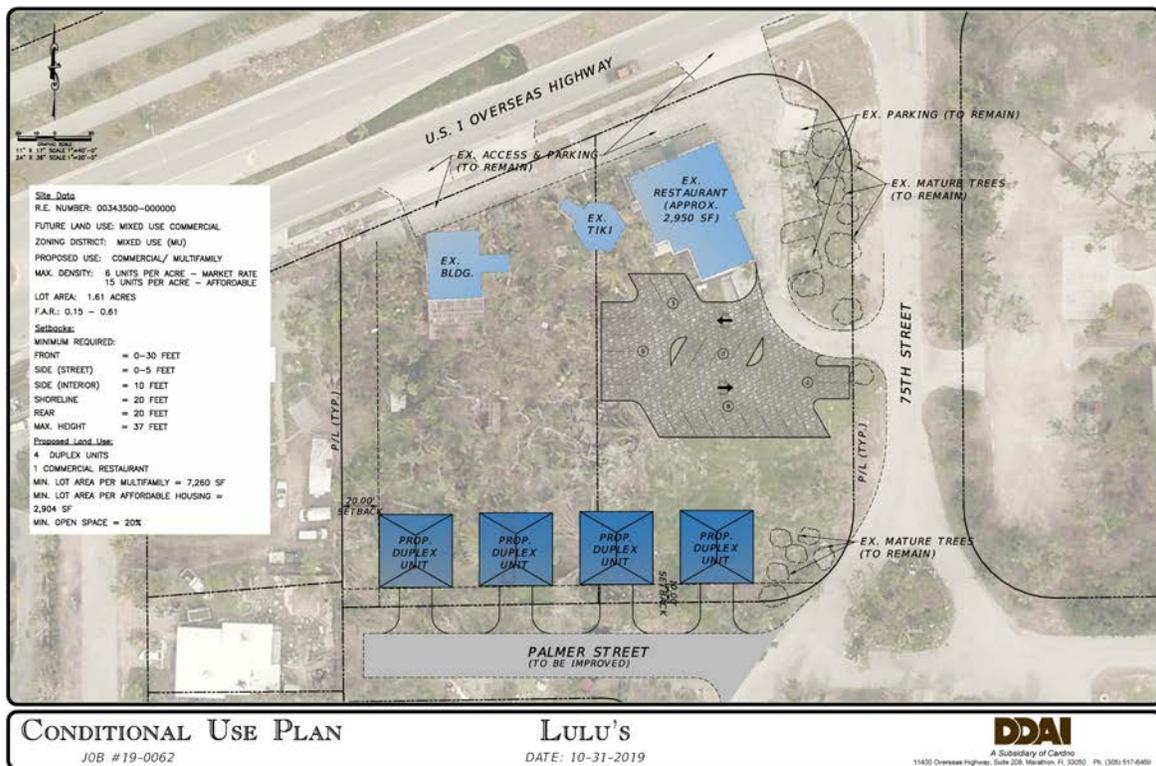
EXISTING CONDITIONS:

The project site has two (2) existing commercial structures with associated infrastructure. The proposed future development is the proposed redevelopment is the addition of eight (8) Market Rate residential units (4 duplexes) on vacant portion of lot.

Residential Units: 8 Market Rate Residential Units (4 duplexes).

See Figure 4 for Site Plan layout.

Figure 4
Proposed Redevelopment Site Plan



BACKGROUND:

The site currently has two (2) existing commercial structures, which will remain. The proposed development will consist of eight (8) residential units (4 duplexes) (Market Rate) and the existing commercial structures with associated infrastructure utilizing an existing commercial (Mixed Use) lot. This report addresses the Conditional Use application associated with the Conditional Use Permit.

All condition 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 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 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 existing Commercial lot 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 Market Rate residential units are allowed at a maximum of 6 units per acre and at numbers greater than three (3) are only approved through the Conditional Use Permit process. 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 nine (9) residential units. Table 103.15.3 further qualifies the allowed range of intensities based on the intensity of retail use.

Development Type	Proposed	Maximum Allowed
Residential Units		
Market Rate	8	8
Affordable	0	0
Commercial	6,750 square feet	7,291 square feet (.60 FAR)

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 (MU-C) Future Land Use District. Policy 1-3.1.4 of the City of Marathon Comprehensive Plan states that the “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 includes development of an existing Mixed Use district into the same conditional use, which is consistent with the Mixed Use classification. The existing land use pattern in the project vicinity consists of recreational, mixed use and residential uses to the east; residential uses to the south; mixed and residential uses to the west; and airport use directly north.

Otherwise, the development 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 conditional use does not adversely affect the health, and welfare of the public. The impacts on surrounding properties as a result of the proposed development should be positive.

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.

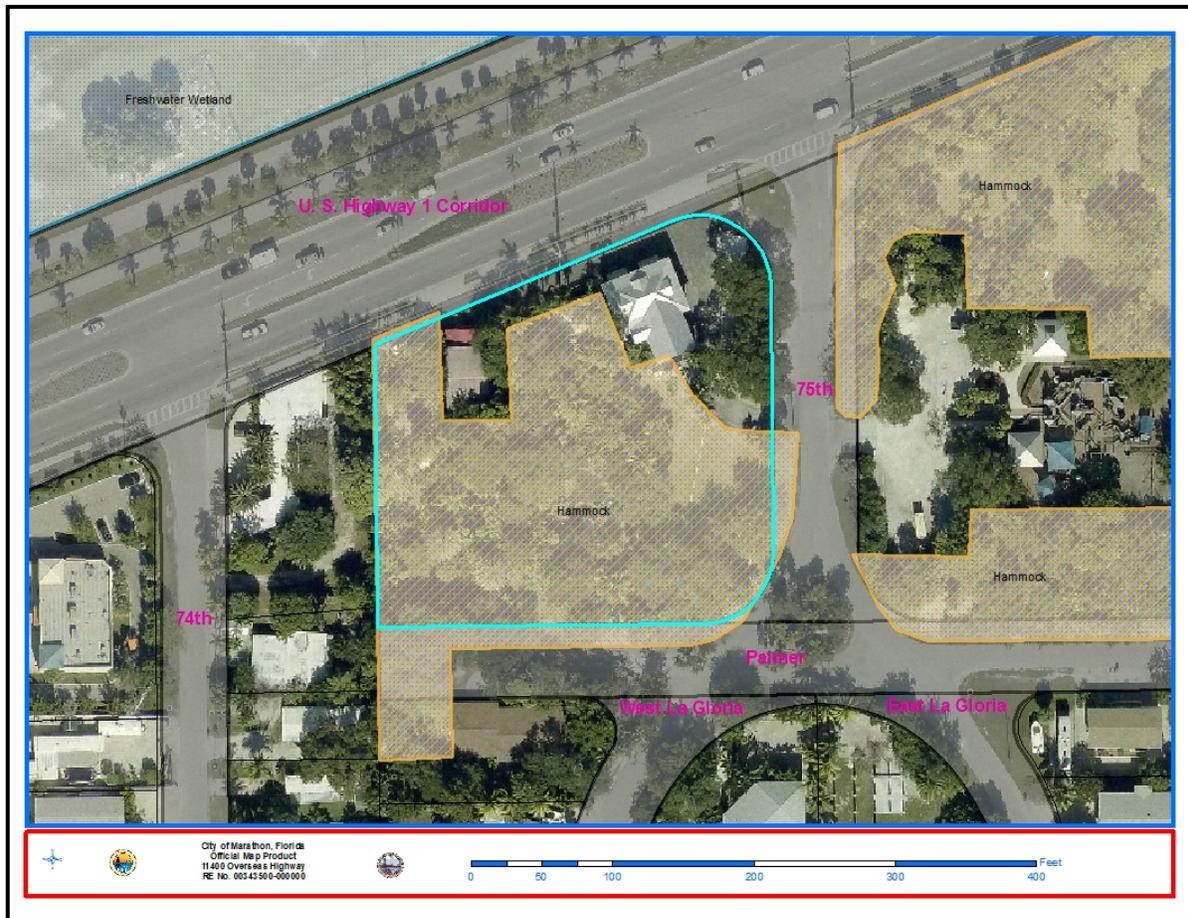
Therefore, the request is *in compliance* with the requirements of these sections.

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. The property is recognized as having Hammocks. See Figure 5.

In addition, though found within a ‘Species Focus Area’ as defined in the settlement for FEMA-FWS lawsuit, “developed land” falls out of the consideration in the species assessment guides thus having “no impact” on the species concern, the Eastern Indigo Snake.

**Figure 5
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.

Therefore, it is staff's opinion that the request is **in compliance** with the requirements of these sections so long as the development is conditioned on provision of final landscaping and mitigation plans subject to approval of the City Biologist and final stormwater plans subject to City approval.

- If the development 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.
- Native vegetation shall remain intact.

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 eight (8) residential units (4 duplexes). A traffic study was submitted and found that based on the expected traffic to be generated at peak hours of 5 AM (7-9 AM) and 8 PM (4-6 PM) trips, the proposed development will not have an adverse impact on the operating characteristic of U.S. 1. A Level 1 traffic study was provided. The Level of Service for 75th ST Ocean is a Level of Service A. Any change in traffic generation, positive or negative would not impact the overall LOS for US 1 and 75th ST. Ocean in the project area.

Access to the property will be via existing ROW on US 1 and exiting driveways along 75th ST encouraging and providing to provide access to commercial and residential units on the parcel.

Section 107.43 requires site triangles where the access drive intersects with the street. Clear site triangles must be shown on the site plan at time of building permit issuance.

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

- Clear sight triangles must be shown on the site plan at time of building permit issuance.
- Applicant must submit plans showing unobstructed passage of fire and other emergency equipment to necessary areas on public or public property or waterways.

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

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

Parking requirements are outlined in Section 107.46 (Parking Schedule). The following table shows the parking requirement for the residential uses on the parcel:

Use	Code Citation	Requirement	Spaces Required
Single and Two-Family, attached and detached	107.46.1	2 per dwelling unit	16
Total Required			16
Total Provided			16

The developer proposes provisions and arrangements for off-street parking and loading areas, with particular attention to ingress and egress, automobile, bicycle, and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe. Each dwelling unit will have private access to their parking and visitors will be able to park within each driveway area.

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 development of four (4) duplexes or eight (8) single family dwellings planned for future development. Lighting will be necessary for this project. The applicant has not provided detailed lighting plans which conform to the letter with the City of Marathon LDR's. The applicant's detailed plans should achieve the net result of no detrimental noise, glare or odors being generated by any of the uses.

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

- A detailed lighting plan must be submitted before the project is permitted.

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 proposed development will utilize individual refuse containers.

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

- The development shall comply with refuse pick-up schedule.

5. Utilities, with reference to location and availability;

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

- Wastewater: The applicant must coordinate with wastewater Utilities department for connection requirements. This project will constitute a major expansion, resulting in a de minimus impact.
- 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 development will have a de minimus impact on recreation and open space.
- Roadways: The applicant is developing the site with a higher intensity than was contained within the undeveloped vacant land; therefore, a traffic study was completed to analyze the impact on transportation facilities.
- Educational Facilities: This redevelopment will have a de minimus impact on educational facilities since existing uses are replaced in kind.

Therefore, 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.
- A stormwater plan is required that provides the calculations for the retention of the 25 year/72 hour storm. Calculations require a routing analysis to insure the system can handle the runoff during the peak of the event.
- Detail grading plan depicting existing and proposed elevations. All runoff is required to be diverted to the stormwater system with no off-site discharge
- City must assess existing capacity and provide approval of the connection to the City Wastewater Utility will be required.

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 only portion that is not bordered by a road is bordered by the same zoning. Therefore there is no applicable buffer to apply.

Section 107.71 A. requires that parcels with a MU zoning designation provide a Type 1 Streetscape Treatment along U. S. 1. According to the Code, landscape treatment area shall be planted within a ten-foot wide buffer predominantly with shrubs and native canopy of at least two (2) inches caliper at breast height, approximately 50 feet on center. A minimum of four (4) understory trees per 240 feet of frontage, or fraction thereof, planted at access points. In addition, smaller accents trees shall be planted every 120 feet and staggered midway between large canopy trees.

Furthermore, a Type 3 Streetscape Treatment for Mixed Use zoning districts on parcels along all other (75th ST) City streets. The proposed landscape plan meets the minimum requirements. According to the Code, multi-family developments require two (2) canopy trees and two (2) understory trees per 100 linear feet of property frontage, located within a ten-foot wide landscape buffer.

Table 103.15.2 outlines setback requirements in the MU district as follow: front yard 0-30’; side yards 0-10’; interior side min 10’; and, rear yard 20’.

This plan shows a 10’ setback on the front yard, 5’ setback on the northern and southern side yards, 20’ setback on shoreline, and 10’ rear yard setback from accessory structure.

Section 107.36 A. 1. states that for parcels in the RH 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 development meets all other setback requirements, the interior side setback is allowed at the proposed 10’.

Setback	Required	Required Landscape	Proposed	Compliant
Front	0-30	Streetscape 1	>30	Y
East (side)	20	Streetscape 2	>10	Y
West Side	0-10	N/A	20	Y
South	20	Streetscape 2	10	Y

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

- The final landscape plans must be approved by the City Biologist.
- Applicant shall meet the minimum width and planting requirements per Table 107.70.2.

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, particularly for the non-residential portion of the project.

The applicant does not propose a sign at this time. However, if one is proposed in the future, applicant will comply to the minimum standards to comply with Chapter 107 of the LDRs. 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 parcel is considered developed; therefore, a twenty percent open space requirement applies.

To the greatest extent possible, the Applicant will be required to protect Regulated Trees, pursuant to Chapter 106, Article 2 of the LDRs. According to calculations provided by MCPA, 70,233 square feet of total area. The site will provide 50,441 square feet or 72 % as green space (impervious area). This exceeds the open space requirement.

OSR CALCULATION:

Existing structures:	10,161
Existing asphalt:	3,231
Proposed duplexes:	6,400 (1,600 each unit)
Total:	19,792

Total land area: 70,233

$19,792 / 70,233 = 28\%$ impervious, 72% pervious (OSR)

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

9. General compatibility with surrounding properties; and

The project is a development of long standing existing uses in an area of the City which is relatively dense and intense. Adjacent uses include mixed and residential uses of similar and same use. A development of residential dwellings 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 remain compatible 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 104.48 Residential Dwelling Units contains special requirements.

The following criteria are applicable to this redevelopment:

- Plans must show 10' interior setback between residential units.
- As a condition of development, the developer and the City shall enter into a Development Agreement, in addition to compliance with all other provisions of the Code.

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

CONCLUSION:

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

The proposed development consists of the replacement and enhancement of a long standing existing commercial and residential 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:

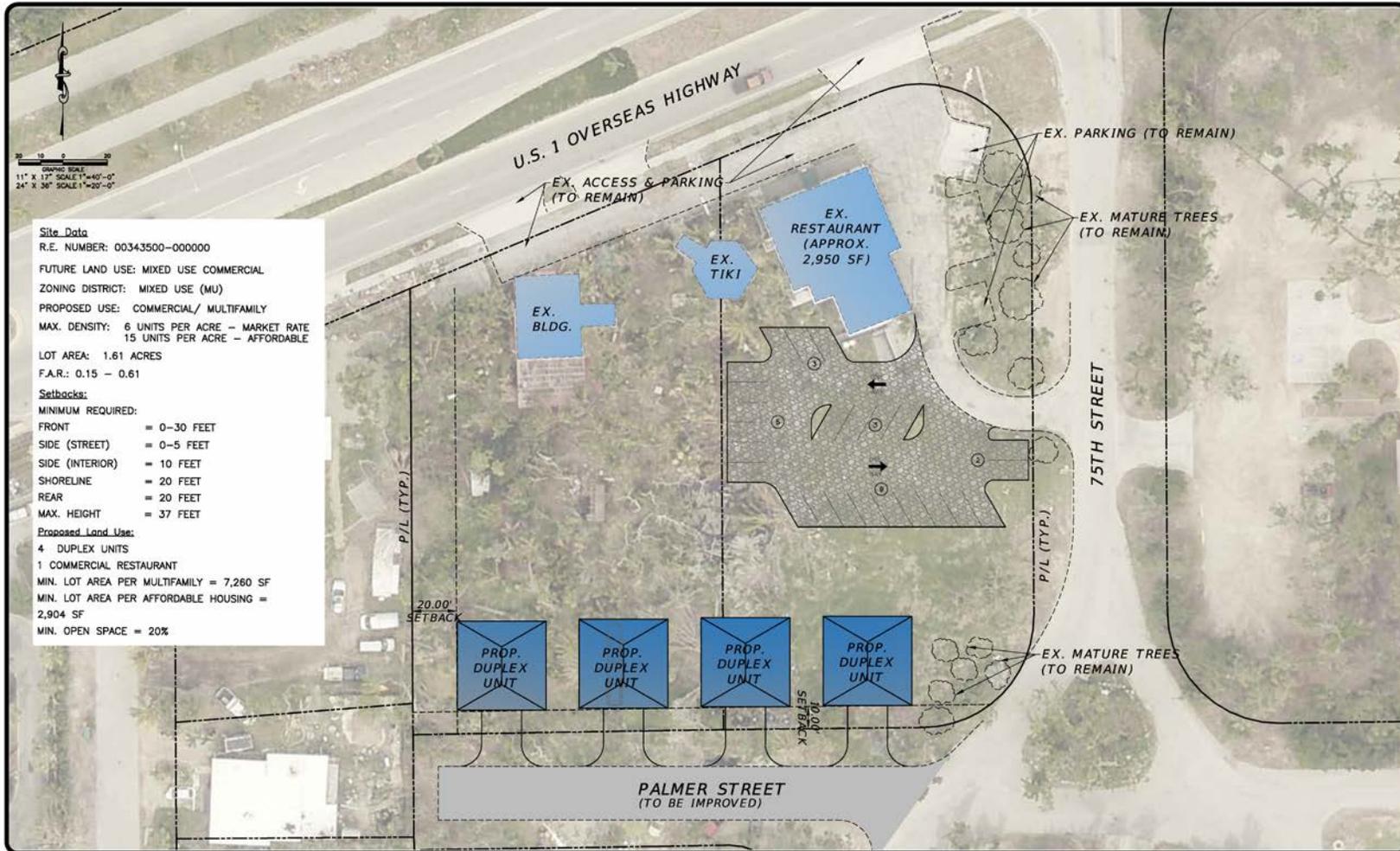
The Planning staff recommends conditional approval of the eight (8) [four (4) duplexes] unit project known as Tender Loving Care Garden Supply, Inc. to the Planning Commission. The proposed conditions of approval are listed below.

Conditions of Approval

1. If the development 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. Native vegetation shall remain intact.
3. Clear sight triangles must be shown on the site plan at time of building permit issuance.
4. Applicant must submit plans showing unobstructed passage of fire and other emergency equipment to necessary areas on public or public property or waterways.
5. A detailed lighting plan must be submitted before the project is permitted.
6. The development shall comply with refuse pick-up schedule.
7. City approval is required for the stormwater management system prior to Building Permit Approval.
8. A stormwater plan is required that provides the calculations for the retention of the 25 year/72 hour storm. Calculations require a routing analysis to insure the system can handle the runoff during the peak of the event.
9. Detail grading plan depicting existing and proposed elevations. All runoff is required to be diverted to the stormwater system with no off-site discharge
10. City must assess existing capacity and provide approval of the connection to the City Wastewater Utility will be required.
11. Applicant shall meet the minimum width and planting requirements per Table 107.70.2.

12. All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
13. Plans must show 10' interior setback between residential units.
14. As a condition of development, the developer and the City shall enter into a Development Agreement, in addition to compliance with all other provisions of the Code.
15. The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.

Attachment: Proposed Site Plan A



CONDITIONAL USE PLAN

JOB #19-0062

LULU'S

DATE: 10-31-2019

DDAI

A Subsidiary of Cardno

11400 Overseas Highway, Suite 208, Marathon, FL 33050 Ph: (305) 517-8409

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE REQUEST BY TENDER LOVING CARE GARDEN SUPPLY, INC., FOR A CONDITIONAL USE PERMIT, PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (CODE) ENTITLED “CONDITIONAL USE PERMITS”, AUTHORIZING THE DEVELOPMENT OF A EIGHT MARKET RATE RESIDENTIAL SUBDIVISION ON DEVELOPED LOT, SUBJECT TO CONDITIONS IMPOSED, FOR PROPERTY LOCATED AT 7537 OVERSEAS HIGHWAY, WHICH IS LEGALLY DESCRIBED AS SECTION 12, TOWNSHIP 66, RANGE 32, TRACT A OF THE PARAISO SUBDIVISION IN KEY VACA, MARATHON, FLORIDA, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00343500-000000.

WHEREAS, Tender Loving Care Garden Supply, Inc. (The “Applicant”) filed an application on August 1st, 2019 for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS; the Applicant has proposed development of eight (8) market rate residential dwelling units on developed land; and

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

WHEREAS, on the 18th day of November, 2019, the City of Marathon Planning Commission (the “Commission”) conducted a properly advertised public hearing (the “Public Hearings”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

WHEREAS, and on the 10th day of December, 2019, the City Council (the “Council”) conducted a properly advertised public hearing (the “Public Hearing”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

WHEREAS; the City Council made a determination that the Applicant’s request for a Conditional Use Permit, subject to the terms of the LDRs and with Conditions imposed, was in

Compliance with the City’s Comprehensive Plan and LDRs, is consistent with its policy to encourage the development of residential properties in Marathon, and will further the health, safety and welfare of the residents of Marathon; and

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

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

Section 2. The City Council hereby approves Development Order 2019-14, a copy of which is attached hereto as Exhibit “A”, granting a Conditional Use Permit to Servais & Sweeny Property Co. 1, LLC, subject to the Conditions imposed. The Director of Planning is authorized to sign the Development Order on behalf of the City.

Section 3. This resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 10TH DAY OF DECEMBER, 2019.

THE CITY OF MARATHON, FLORIDA

Steve Cook, Mayor

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

Diane Clavier, City Clerk
(City Seal)

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

David Migut, City Attorney

**CITY OF MARATHON, FLORIDA
CONDITIONAL USE
DEVELOPMENT ORDER # 2019-14**

A DEVELOPMENT ORDER APPROVING THE REQUEST BY TENDER LOVING CARE GARDEN SUPPLY, INC., FOR A CONDITIONAL USE PERMIT, PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (CODE) ENTITLED “CONDITIONAL USE PERMITS”, AUTHORIZING THE DEVELOPMENT OF A EIGHT MARKET RATE RESIDENTIAL SUBDIVISION ON DEVELOPED LOT, SUBJECT TO CONDITIONS IMPOSED, FOR PROPERTY LOCATED AT 7537 OVERSEAS HIGHWAY, WHICH IS LEGALLY DESCRIBED AS SECTION 12, TOWNSHIP 66, RANGE 32, TRACT A OF THE PARAISO SUBDIVISION IN KEY VACA, MARATHON, FLORIDA, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00343500-000000.

WHEREAS, Tender Loving Care Garden Supply, Inc. (The “Applicant”), filed an Application on August 1, 2019 for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS; the Applicant has proposed development of eight (8) market rate residential dwelling units on a developed lot; and

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

WHEREAS, on the 13th day of November, 2019, the City of Marathon Technical Review Committee (the “TRC”) held a properly advertised public hearing (the “Public Hearings”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

WHEREAS, on the 18th day of November, 2019 and the 10th day of December, 2019, the Planning Commission (the “PC”) and City Council (the “Council”) conducted properly advertised public hearings (the “Public Hearings”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

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

WHEREAS, the Council has duly considered the recommendation of the Planning Commission and the information and documentary evidence submitted by Tender Loving Care Garden Supply, Inc., and does hereby find and determine as provided below.

FINDINGS OF FACT:

1. The Applicant has proposed development of eight (8) (four duplex buildings) market rate dwelling units on developed land.
2. In accordance with Section 102.77 of the Code, the Commission and Council considered and determined the Applicant met the following criteria:
 - a. The proposed use is consistent with the Comprehensive Plan and LDRs;
 - b. The proposed use is compatible with the existing land use pattern and future uses designated by the Comprehensive Plan;
 - c. The proposed use shall not adversely affect the health, safety, and welfare of the public; and
 - d. The proposed conditional use minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment; and
 - e. Satisfactory provisions and arrangements have been made concerning the following matters, where applicable:
 1. Ingress and egress to the property and proposed structures thereon with particular reference to automotive, bicycle, and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;
 2. Off-street parking and loading areas where required, with particular attention to item 1 above;
 3. The noise, glare or odor effects of the conditional use on surrounding properties;
 4. Refuse and service areas, with particular reference to location, screening and Items 1 and 2 above;
 5. Utilities, with reference to location and availability;
 6. Screening and buffering with reference to type, dimensions and character;
 7. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety and compatibility with surrounding properties;
 8. Required yards and other open space;
 9. General compatibility with surrounding properties; and

CONDITIONS IMPOSED:

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

Conditions of Approval

1. If the development 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. Native vegetation shall remain intact.
3. Clear sight triangles must be shown on the site plan at time of building permit issuance.
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11. Applicant shall meet the minimum width and planting requirements per Table 107.70.2.
12. All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
13. Plans must show 10' interior setback between residential units.
14. As a condition of development, the developer and the City shall enter into a Development Agreement, in addition to compliance with all other provisions of the Code.
15. The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.

VIOLATION OF CONDITIONS:

The applicant understands and acknowledges that it must comply with all of the terms and conditions herein, and all other applicable requirements of the City or other governmental agencies applicable to the use of the Property. In accordance with the Code, the Council may revoke this approval upon a determination that the Applicant or its successor or designee is in non-compliance with this Resolution or Code. Failure to adhere to the terms and conditions of approval contained herein is a violation of the Code and persons found violating the conditions shall be subject to the penalties prescribed therein.

CONCLUSIONS OF LAW:

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

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

EFFECTIVE DATE:

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

Date

George Garrett
Director of Planning

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

Diane Clavier, City Clerk

NOTICE

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

In addition, please be advised that pursuant to Chapter 9J-1, Florida Administrative Code, this instrument shall not take effect for forty-five (45) days following the rendition to the Florida Department of Community Affairs. During that forty-five days, the Florida Department of Economic Opportunity may appeal this instrument to the Florida Land and Water Adjudicatory Commission, and that such an appeal stays the effectiveness of this instrument until the appeal is resolved by agreement or order.

CERTIFICATE OF SERVICE

A true and correct copy of the above and foregoing Resolution was furnished, via U.S. certified mail, return receipt requested, addressed to Steve Hurley, Agent at 11400 Overseas Hwy #208, Marathon, FL 33050, this _____ day of _____, 2019.

Diane Clavier, City Clerk