

CITY COUNCIL AGENDA STATEMENT



Meeting Date: March 25, 2025
From: Brian Shea, Planning Director
Through: George Garrett, City Manager

Agenda Item: **Resolution 2025-12**, Consideration Of A Request By Wharf Marina, Inc. For A Development Agreement And A Conditional Use Permit, Pursuant To Chapter 102, Articles 8 And 13 Of The City Of Marathon Land Development Regulations (LDRs) Entitled “Development Agreement” And “Conditional Use Permits” Respectively, For The Development Of A Property Into Five (5) Transient Units, Office And Restaurant, And Marina; Located At 1480 Overseas; Which Is As Part Of Government Lot 2 And Bay Bottom North Of And Adjacent To Lot 2 And Adjacent Portion Of State Road 4-A And 1458 Coral Drive Legally Described As Back 3 Part Of Lots 1- 2 -3 And Back 2 Parts Of Lots 1-2-3-4 W R Thompson Subdivision PB 2-104 (Aka Parcels B-C-D-E-F-K-L Per UNREC 1977 C G Bailey Survey On File), Section 9, Township 66 South, Range 32, Key Vaccas, Monroe County, Florida; Having Real Estate Numbers 00102790-000000, & 00320330-000000. Nearest Mile Marker 48.

RECOMMENDATION:

Staff recommends approval of the project with the recognized conditions and limitations.

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

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

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

LOT SIZE:

RE: 00102790-000000, 1480 Overseas Hwy.
Approximately 1.26 acres upland, 1.86 acres environmentally sensitive lands, and 1.00-acre easement.

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

SURROUNDING ZONING AND USES:

	<u>Zoning</u>	<u>Use</u>

North	Residential Medium and Residential High	Harbor Cay Club
East	Mixed Use	Vacant Land
South	Mixed Use and Residential Mobile Home	Trailerama, Dion's
West	Residential Medium and Mixed Use	Porky's, Wharf Marina

EXISTING CONDITIONS:

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

Figure 1: Project Location



FUTURE LAND USE AND ZONING MAP DESIGNATIONS:

Mixed Use Commercial (MU-C) and Residential Medium (RM). See Figures 2 & 3.

Figure 2: Future Land Use Map

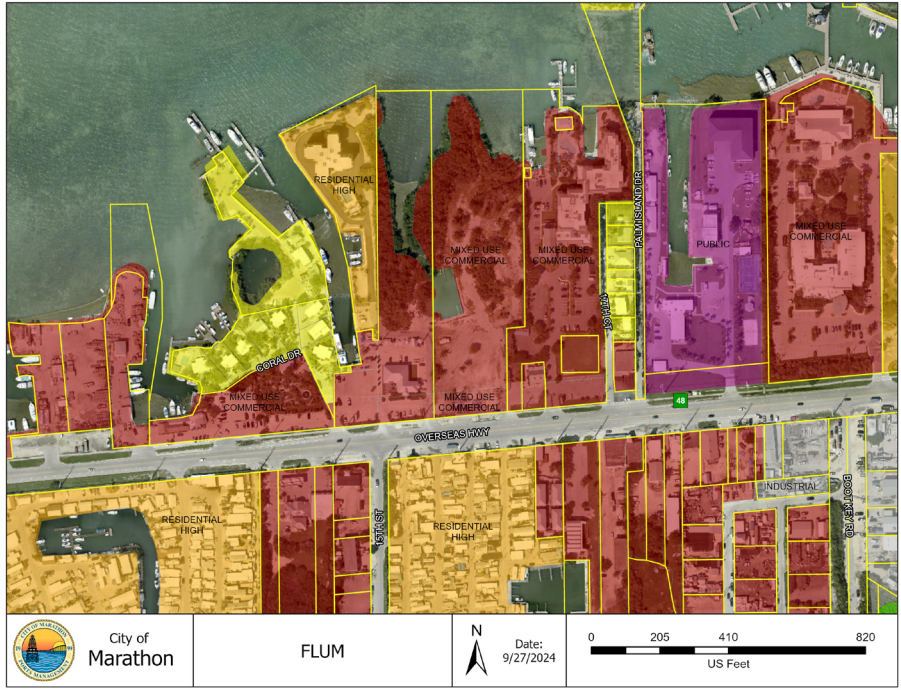
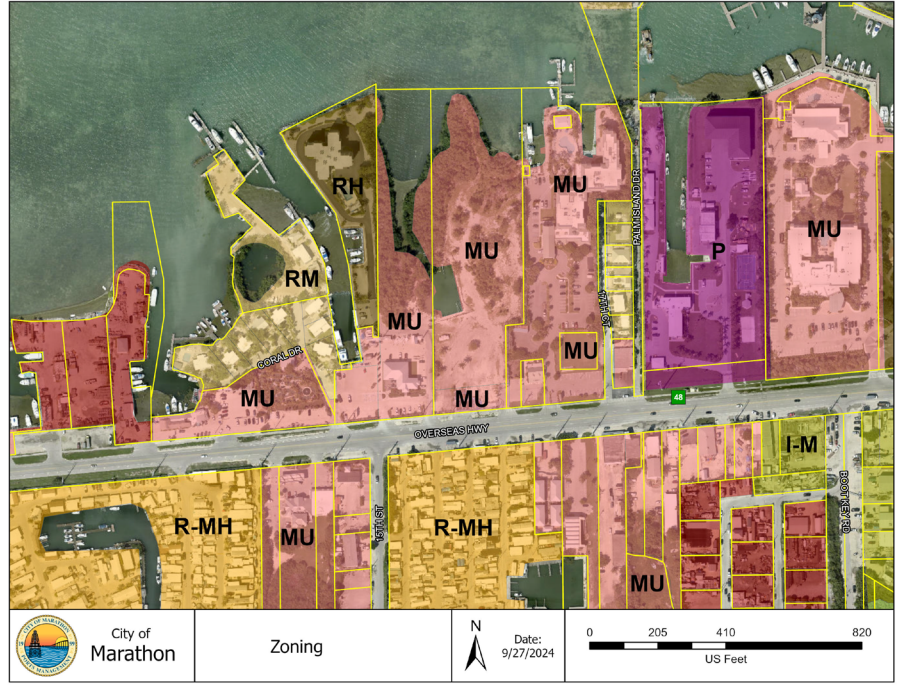


Figure 3: Zoning Map



PROPOSED REDEVELOPMENT:

Transient Units: 5 transient units.

Commercial: 3,640 square feet and accessory structures. Already completed.

BACKGROUND:

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

On June 18, 2019, the City Council passed Resolution 2019-61 approving the original conditional use application. Previous approvals included 6 Market Rate and 1 Affordable Unit; these are no longer being proposed.

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

EVALUATION FOR COMPLIANCE WITH THE LAND DEVELOPMENT REGULATIONS:

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

CRITERIA

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

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

The proposed project consists of the development of new residential uses and is consistent with the Mixed-Use Zoning District. Section 103.15 establishes whether specific uses are allowed as of right, limited, accessory or conditional uses, through Table 103.15.2. That table shows that multifamily residential uses are allowed as Conditional Uses in the MU district. Marinas are also a Conditional Use in MU zoning. Conditional Use review is intended to allow a broader view of the potential impacts of a project on adjacent uses and on City concurrency related resources such as road

capacity, solid waste, sewer, and potable water availability.

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

The amended conditional use proposes five (5) transient units. Allowed density is 5-25 Units per acre for Transient units. The Mixed-Use Commercial building has already been constructed as the Captain Pips & Starbucks. The Five (5) Transient units over parking have yet to be constructed. The required minimum lot area per unit is 1,742 sq ft with a minimum open space requirement of 20%. The total Site area is 1.73 Acres requiring a minimum of 15,107 sq ft of open space. The site plan provides approximately 20,188 sq ft of open space or 26.7%. The proposed amendment provided a reduced density.

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

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

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

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

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

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

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

The proposed use is the creation of residential use which has not had any known impact to the

health, safety, and welfare of the public. Additionally, the creation of the office and restaurant space are not expected to create any adverse impacts to the health, safety, and welfare of the public.

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

- Will not have a detrimental effect on the use of such waters for navigation, transportation, recreational or other public purposes and public conveniences;
- Will not restrict the free use of the waterways and navigable waters;
- Will not have a material adverse effect upon the flow of water or tidal currents in the surrounding waters;
- Will not have a material adverse effect upon erosion, erosion control, extraordinary storm drainage, shoaling of channels, or would be likely to adversely affect the water quality presently existing in the area or limit progress that is being made toward improvement of water quality in the area;
- Will not have a material adverse effect upon the natural beauty and recreational advantages of the City;
- Will not have a material adverse effect upon the conservation of wildlife, marine life, and other natural resources, including shorelines, so as to be contrary to the public interest;
- Will not have a material adverse effect upon the uplands surrounding or necessarily affected by such plan or development;
- Will not have a material adverse effect on the community character or safety, health, and welfare of the general public; or
- Will not be inconsistent with adopted State plans (i.e., manatee protection plans), the City of Marathon Comprehensive Plan, other formally adopted natural resource management plans, or any other City ordinances or regulations.

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

Figure 4: FEMA Flood Maps



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

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

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

Figure 5: Species Focus Area Habitat



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

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

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

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

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

- Staff requires that upon planning review, if the redevelopment is found to have any effect on the Eastern Indigo Snake Habitat, then the prescribed protection measures must be undertaken, and the information posted on site.

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

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

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

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

Land Use	Size	Daily Trips	AM Peak Hour Trips			PM Peak Hour Trips		
			In	Out	Total	In	Out	Total
<i>Approved</i> Multifamily Housing (Low-Rise)	7 DU	42	1	2	3	3	1	4
<i>Proposed</i> Transient Housing (Hotel)	5 DU	38	1	2	3	2	1	3
Difference (Proposed - Approved)		4	0	0	0	1	0	1

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

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

in Marathon, Florida indicates that the proposed actions will result in a minor increase in daily (+5 trips) and peak hour trips (+1 AM peak hour trip and +1 PM peak hour trip).

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

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

Parking requirements are outlined in Section 107.46 (Parking Schedule). For five transient units, one parking space per bedroom is required for each unit. One space is required for every 2 bedrooms, one space per every three employees. The twelve berths require 6 parking spaces. Five spaces were required for the office. The coffee shop required one space for every three seats, and one space for every two employees on the largest shift. This requirement was met. Residential parking is being provided on site. A total of 47 parking spaces are required. The site plan provided a total of 50

parking spaces.

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

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

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

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

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

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

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

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

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

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

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

5. Utilities, with reference to location and availability;

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

- Wastewater: The applicant will provide wastewater and sewage collection and disposal via proposed sanitary clean outs; the property is currently connected to the City sewer system. This project will constitute an expansion, resulting in a de minimis impact. The applicant must provide utility easements for the proposed alterations.
- Water: The Florida Keys Aqueduct Authority will provide potable water for the facility.
- Solid Waste: Marathon Garbage Service will provide solid waste disposal.

- Surface Water: The applicant has provided stormwater design information suitable for the Conditional Use application review which demonstrates compliance with City standards. However, a final stormwater plan will be required for building permit issuance. This will provide a full topographic survey up twenty-five feet off-site and centerline of adjacent road.
- Recreation and Open Space: This redevelopment will have a de minimis impact on recreation and open space.
- Roadways: The applicant is redeveloping the site with a higher intensity than was contained within the prior development; therefore, a traffic study was completed to analyze the impact on transportation facilities.
- Educational Facilities: This redevelopment will have a de minimis impact on educational facilities.

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

- City approval is required for the stormwater management system prior to Building Permit Approval. This will provide a full topographic survey up twenty-five feet off-site and centerline of adjacent road.
- City approval of the connection to the City Wastewater Utility will be required.
- A utility easement must be recorded for access and maintenance.
- The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.
- Area 3 WWTP has only the capacity for the existing EDU's assigned to this property. No more capacity will be available until the plant is expanded.

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

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

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

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

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

Table 106.28.1 outlines that the setback of principal structures on a canal is 20' as measured from

MHWL or mangrove fringe whichever is further landward.

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

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

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

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

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

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

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

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

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

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

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

8. Required yards and other open space;

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

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

9. General compatibility with surrounding properties; and

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

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

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

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

Section 104.25 Hotels or Motels

The following criteria are applicable to this redevelopment:

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

A. General Provisions

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

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

B. *Redevelopment Criteria.*

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

- (2) the Conditional Redevelopment Units have been tracked; and (3) other environmental and land use issues have been addressed.
- 7) Notwithstanding the foregoing, the developer of a hotel or motel containing less than 12 units may convert existing, lawfully established accessory floor area in the hotel or motel to a second bedroom or third bedroom, as the case may be, to an adjacent existing hotel or motel unit without triggering the requirements of Subsections B.1 or B.4 above; provided, however, that the additional floor area hereunder shall not exceed 425 square feet per unit or 850 square feet in the aggregate per property.

Section 104.42 Outdoor Storage contains special requirements.

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

Section 104.30 Marina contains special requirements.

The following criteria are applicable to this redevelopment:

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

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

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

CONCLUSION:

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

congestion, a threat to the public health, safety, or welfare of the community.

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

RECOMMENDATION:

Planning staff recommended approval of the proposed Amended Conditional Use Permit and Development Agreement allowing the development of five (5) transient units from the previous approvals which included 6 Market Rate and 1 Affordable Unit, provided all conditions are met prior to permit issuance. The proposed conditions of approval are listed below. Planning Commission recommends approval (4-1).

Conditions of Approval

1. A Final Site Plan must be submitted showing the existing (to be retained) and proposed buildings meeting the required setbacks, the specific setbacks for the old building footprint, parking locations, access drives and all civil engineering features; and
2. City approval of the connection to the City Wastewater Utility is required, including:
 - a. engineering drawings as needed,
 - b. projected wastewater flows, and
 - c. any easements, connections, and projected flows for Casa Cayo.
3. City approval is required for the stormwater management system prior to Building Permit Approval.
4. Area 3 WWTP has only the capacity for the existing EDU's assigned to this property. No more capacity will be available until the plant is expanded.
5. The applicant will provide fire protection plans in accordance with fire protection requirements as outlined by the City Fire Marshal (attached as Exhibit A)
6. A Final Landscape Plan must be submitted showing the proper treatments and buffers, including the appropriate treatment types and trees.
7. The final site plan must show that the dumpsters are screened.
8. All signs shall be reviewed and approved for compliance with the City of Marathon LDR's.
9. If the redevelopment is found to have any effect on the Eastern Indigo Snake Habitat, then the prescribed protection measures must be undertaken, and the information poster posted on site.
10. All mangroves associated with the northern portion of the parcel, north of the access easement to Casa Cayo, shall remain intact and may not be removed per the City's protection provisions for Mangrove Habitats.
11. Conservation Easement for mangrove area will be required pursuant to Section 106.02.
12. Outdoor storage shall be incidental and subordinate to the primary use located on the property.
13. Storage areas shall be located to the side or rear of the principal building and completely

- screened from view.
14. Prior to the issuance of any permit under this article, special conditions may be imposed for such permit. These conditions should include any item which can be reasonably expected to enhance the probability that the proposed activity will be conducted in compliance with the intent of this article. Those conditions may include, but are not limited to, field inspections by City staff, reports, monitoring, bonding, easements, guaranteed survival of non-affected and/or replanted vegetation, protective barriers, setbacks, protective earthwork, replants, signage, restoration, and/or mitigation. Conditions may also be applied in order to ensure consistency with the Comprehensive Plan.
 15. It shall be unlawful for any person to deviate from the specific conditions of the permit as set forth by this article without the prior approval of the Planning Director or City Council as appropriate.
 16. The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.
 17. The Applicant must obtain or transfer five (5) housing units, to be transferred via the Transfer of Building Rights (TBR's), BPAS process, or any other legally established process prior to building permit issuance. THE APPROVAL OF THE REQUESTED CONDITIONAL USE PERMIT AMENDMENTS DO NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF ANY TRANSIENT UNIT NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT.
 18. Property lines must be reconfigured so that all duplex buildings and associated parking are within the same parcel.
 19. *A. General Provisions*
 1. Each hotel or motel shall comply with all mandatory hurricane evacuation requirements set forth by the City for hotel, motel, and other transient uses.
 2. Each hotel or motel shall establish and maintain shuttle transport services to airports and tourist attractions individually or in conjunction with other hotel or motel operators.
 3. Except as provided in Subsection (a), all hotel or motels shall provide on- or off-site employee housing living space in an amount equal to a minimum of 25 percent (as may be adjusted from time to time by Council policy to reflect economic conditions) of the approved floor area in guest units; and such housing shall be of any of the following types as outlined in (b) below:
 - a. An exception to the requirement for on- or off-site employee housing living space for hotel/motel redevelopment may be recommended by the Planning Director, the Planning Commission, and approved by the City Council as part of a conditional use and/or development agreement when the following criteria are met:
 - 1) No increase in the number of hotel/motel transient units (unit as described in Subsection 104.25A.4. of the LDRs);
 - 2) No use of transferable building rights (TBRs) (as described specifically in Subsection 107.14B. of the LDRs);
 - 3) No significant change (+ or – 10%) in the current project floor area (Floor area as defined in Chapter 110, Article 3 of the LDRs);

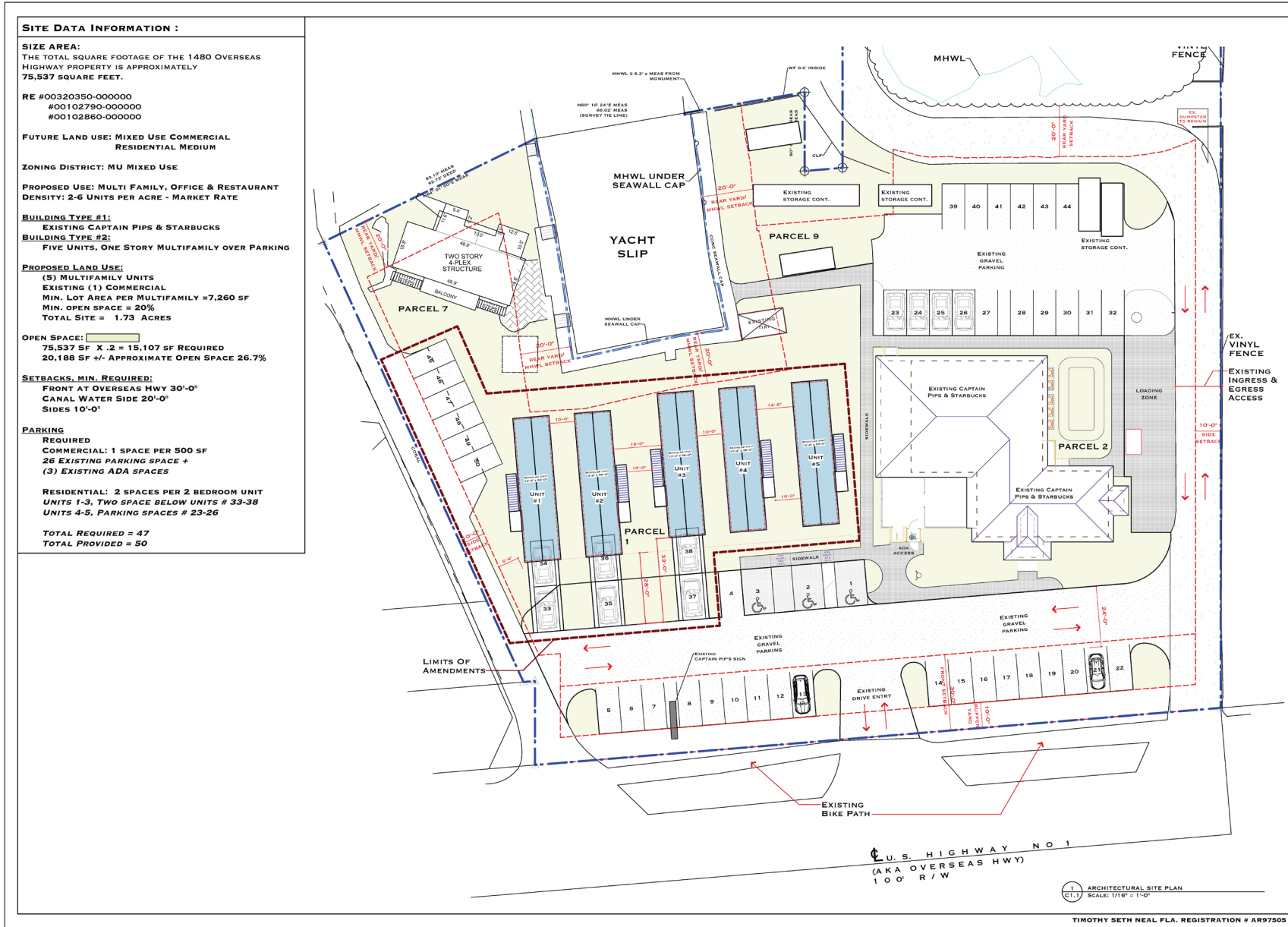
- 4) No significant difference between the current and proposed uses of floor area;
 - 5) No effort to move units off-site through TBRs as part of the proposed project, though they may be documented and preserved for future use; and
 - 6) No significant change or increase in the size or type of project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

B. Redevelopment Criteria.

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

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

Attachments A: Proposed Redevelopment Site Plan



T.S. NEAL ARCHITECTS INC.
22974 OVERSEAS HWY
CUDDE KEY, FL 33042
305-340-8857
251-422-9547



CAPTAIN PIP'S
1480 OVERSEAS HIGHWAY
MARATHON, FL 33050

DRAWING TITLE:
ARCHITECTURAL SITE PLAN

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

REV.	DATE

REVISION # DATE

C1.1
SHEET #

T.S. NEAL ARCHITECTS, INC.

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

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

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

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

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

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

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

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

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

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


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

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

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

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 11th DAY OF JUNE, 2019.

THE CITY OF MARATHON, FLORIDA



John Bartus, Mayor

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

ATTEST:



Diane Clavier, City Clerk

(City Seal)

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



David Migut, City Attorney

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

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

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

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

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

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

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

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

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

FINDINGS OF FACT:

1. The Applicant has proposed the redevelopment of three (3) existing properties, such that an existing residential four-plex will remain and will build (six (6) market rate residential units and one (1) affordable residential unit in one multi-plex and, in addition, construct 3,200 square feet of commercial and accessory commercial structures (Site Plan Attached as Attachment 1; and
2. In accordance with Section 102.77 of the Code, the Commission and Council considered and determined the Applicant met the following criteria:
 - a. The proposed use is consistent with the Comprehensive Plan and LDRs;
 - b. The proposed use is compatible with the existing land use pattern and future uses designated by the Comprehensive Plan;
 - c. The proposed use shall not adversely affect the health, safety, and welfare of the public; and
 - d. The proposed conditional use minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment; and
 - e. Satisfactory provisions and arrangements have been made concerning the following matters, where applicable:
 - 1) Ingress and egress to the property and proposed structures thereon with particular reference to automotive, bicycle, and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;
 - 2) Off-street parking and loading areas where required, with particular attention to item 1 above;
 - 3) The noise, glare or odor effects of the conditional use on surrounding properties;
 - 4) Refuse and service areas, with particular reference to location, screening and Items 1 and 2 above;
 - 5) Utilities, with reference to location and availability;
 - 6) Screening and buffering with reference to type, dimensions and character;
 - 7) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety and compatibility with surrounding properties;
 - 8) Required yards and other open space;
 - 9) General compatibility with surrounding properties; and

CONDITIONS IMPOSED:

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

Conditions of Approval

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

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

Subsection 107.06(c) shall also apply.

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

VIOLATION OF CONDITIONS:

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

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

CONCLUSIONS OF LAW:

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

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

EFFECTIVE DATE:

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

6/18/19
Date

George Garratt
George Garratt
Director of Planning

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

Diane Clavier
Diane Clavier, City Clerk

NOTICE

Under the authority of Section 102.79(c) of the City of Marathon Land Development Regulations, this development order shall become null and void with no further notice required by the City, unless a business license has been issued for the use or a complete building permit application for site preparation and building construction with revised plans as required herein is submitted to the City of Marathon Building Official within one (1) year from the date of conditional use approval, or the date when the Department of Community Affairs waives its appeal and all required certificates of occupancy are procured with three (3) years of the date of this development order is approved by the City Council. In addition, please be advised that pursuant to Chapter 9J-1, Florida Administrative Code, this instrument shall not take effect for forty-five (45) days following the rendition to the Florida Department of Community Affairs. During that forty-five days, the Florida Department of Economic Opportunity may

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

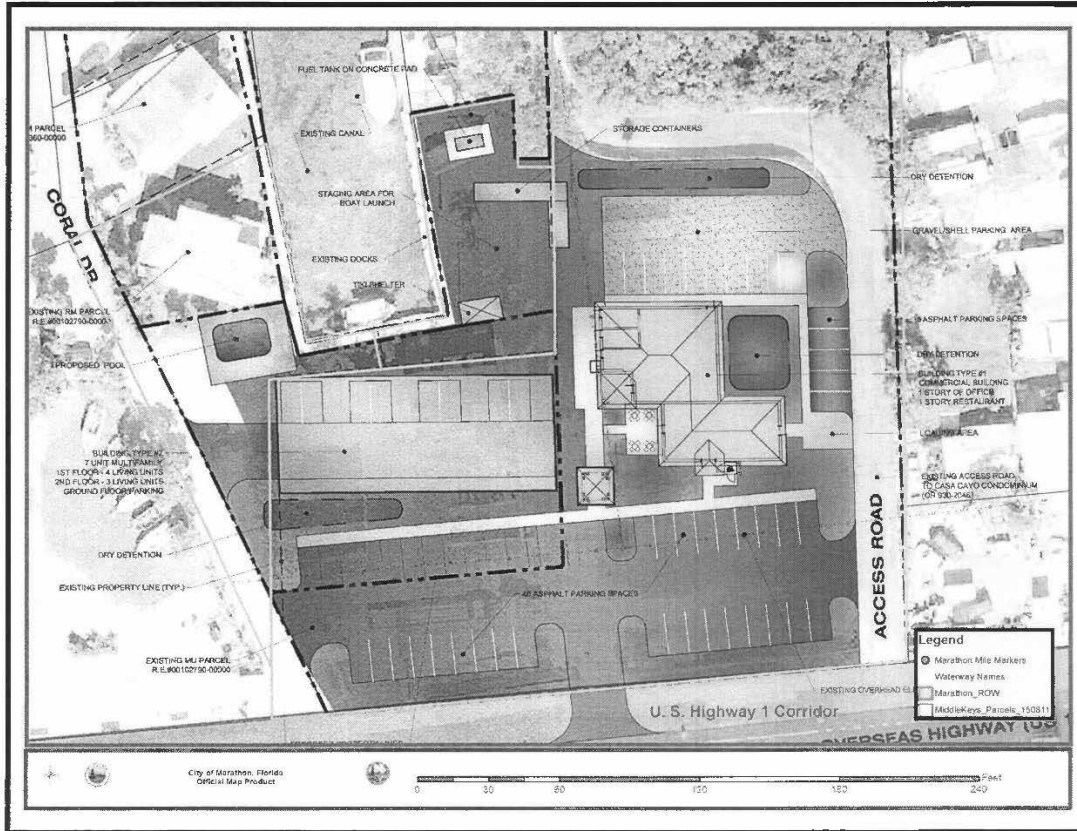
CERTIFICATE OF SERVICE

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



Diane Clavier, City Clerk

Attachment 1
Approved Site Plan



**CITY OF MARATHON, FLORIDA
RESOLUTION 2025-12**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, APPROVING A REQUEST FOR A CONDITIONAL USE PERMIT FOR WHARF MARINA, INC. PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (CODE) ENTITLED “CONDITIONAL USE PERMITS” FOR THE DEVELOPMENT OF A PROPERTY INTO FIVE (5) TRANSIENT UNITS, OFFICE AND RESTAURANT, AND MARINA; LOCATED AT 1480 OVERSEAS; WHICH IS AS PART OF GOVERNMENT LOT 2 AND BAY BOTTOM NORTH OF AND ADJACENT TO LOT 2 AND ADJACENT PORTION OF STATE ROAD 4-A AND 1458 CORAL DRIVE LEGALLY DESCRIBED AS BACK 3 PART OF LOTS 1- 2 -3 AND BACK 2 PARTS OF LOTS 1-2-3-4 W R THOMPSON SUBDIVISION PB 2-104 (AKA PARCELS B-C-D-E-F-K-L PER UNREC 1977 C G BAILEY SURVEY ON FILE), SECTION 9, TOWNSHIP 66 SOUTH, RANGE 32, KEY VACCAS, MONROE COUNTY, FLORIDA; HAVING REAL ESTATE NUMBERS 00102790-000000, & 00320330-000000. NEAREST MILE MARKER 48.

WHEREAS, A Conditional Use permit was approved on June 18, 2019, pursuant to Chapter 102, Article 13 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS, Wharf Marina, Inc. (The “Applicant”) filed an Application on September 5, 2024, for an amended Conditional Use Permit pursuant to Chapter 102, Article 13 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS, the Applicant has proposed the redevelopment of two (2) existing properties, such that five (5) transient units will be constructed in addition, the 3,640 square feet of commercial and accessory commercial structures that have already been constructed; and

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

WHEREAS, on the 24th day of February 2025, the Planning Commission (the “Commission”) conducted a properly advertised public hearing (the “Public Hearing”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

WHEREAS, on the 25th day of March 2025, the City Council (the “Council”) conducted a properly advertised public hearing (the “Public Hearing”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

WHEREAS, the City Council made a determination that the Applicant’s request for a Conditional Use Permit, subject to the terms of the LDRs and with Conditions imposed, was in Compliance with the City’s Comprehensive Plan and LDRs, is consistent with its policy to encourage the development of

residential properties and redevelop commercial in Marathon, and will further the health, safety and welfare of the residents of Marathon; and

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

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

Section 2. The City Council hereby approves Development Order 2024-8, a copy of which is attached hereto as Exhibit “A”, granting a Conditional Use Permit and Development Agreement to Wharf Marina, Inc. subject to the Conditions imposed. The Director of Planning is authorized to sign the Development Order on behalf of the City.

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

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 25th DAY OF MARCH 2025.

THE CITY OF MARATHON, FLORIDA

Lynn Landry, Mayor

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Diane Clavier, City Clerk

(City Seal)

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

Steven Williams, City Attorney

**EXHIBIT “A”
CITY OF MARATHON, FLORIDA
CONDITIONAL USE
DEVELOPMENT ORDER # 2024-8**

A DEVELOPMENT ORDER APPROVING A REQUEST FOR AN AMENDED CONDITIONAL USE PERMIT FOR WHARF MARINA, INC. PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (CODE) ENTITLED “CONDITIONAL USE PERMITS” FOR THE DEVELOPMENT OF A PROPERTY INTO FIVE (5) TRANSIENT UNITS, OFFICE AND RESTAURANT, AND MARINA; LOCATED AT 1480 OVERSEAS; WHICH IS AS PART OF GOVERNMENT LOT 2 AND BAY BOTTOM NORTH OF AND ADJACENT TO LOT 2 AND ADJACENT PORTION OF STATE ROAD 4-A AND 1458 CORAL DRIVE LEGALLY DESCRIBED AS BACK 3 PART OF LOTS 1- 2 -3 AND BACK 2 PARTS OF LOTS 1-2-3-4 W R THOMPSON SUBDIVISION PB 2-104 (AKA PARCELS B-C-D-E-F-K-L PER UNREC 1977 C G BAILEY SURVEY ON FILE), SECTION 9, TOWNSHIP 66 SOUTH, RANGE 32, KEY VACCAS, MONROE COUNTY, FLORIDA; HAVING REAL ESTATE NUMBERS 00102790-000000, & 00320330-000000. NEAREST MILE MARKER 48.

WHEREAS, A Conditional Use permit was approved on June 18, 2019 pursuant to Chapter 102, Article 13 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS, Wharf Marina, Inc. (The “Applicant”) filed an Application on September 5th, 2024 for an amended Conditional Use Permit pursuant to Chapter 102, Article 13 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS, said Wharf Marina, Inc. property located at 1480 Overseas Highway (RE Nos. 00102790-000000, & 00320330-000000) which formerly consisted of one residential four-plex and an old commercial structure; and

WHEREAS, the Applicant proposed the redevelopment of two (2) properties, such that five (5) transient units will be constructed in addition to, the 3,640 square feet of commercial and accessory commercial structures that have already been constructed; and

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

WHEREAS, on the 24th day of February 2025, the Planning Commission (the “Commission”) conducted a properly advertised public hearing (the “Public Hearing”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

WHEREAS, on the 25th day of March 2025, the City Council (the “Council”) conducted a properly advertised public hearing (the “Public Hearing”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

WHEREAS, the City Council made a determination that the Applicant’s request for a Conditional Use Permit, subject to the terms of the LDRs and with Conditions imposed, was in Compliance with the City’s Comprehensive Plan and LDRs, is consistent with its policy to encourage the development of

residential properties and redevelop commercial in Marathon, and will further the health, safety, and welfare of the residents of Marathon; and

FINDINGS OF FACT:

1. The Applicant has proposed the redevelopment of two (2) properties, such that five (5) transient units will be constructed, in addition, 3,640 square feet of commercial and accessory commercial structures are already constructed (Site Plan Attached as Attachment 1).; and
2. In accordance with Section 102.77 of the Code, the Commission and Council considered and determined the Applicant met the following criteria:
 - a. The proposed use is consistent with the Comprehensive Plan and LDRs;
 - b. The proposed use is compatible with the existing land use pattern and future uses designated by the Comprehensive Plan;
 - c. The proposed use shall not adversely affect the health, safety, and welfare of the public; and
 - d. The proposed conditional use minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment; and
 - e. Satisfactory provisions and arrangements have been made concerning the following matters, where applicable:
 - 1) Ingress and egress to the property and proposed structures thereon with particular reference to automotive, bicycle, and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
 - 2) Off-street parking and loading areas where required, with particular attention to item 1 above;
 - 3) The noise, glare, or odor effects of the conditional use on surrounding properties;
 - 4) Refuse and service areas, with particular reference to location, screening, and Items 1 and 2 above;
 - 5) Utilities, with reference to location and availability;
 - 6) Screening and buffering with reference to type, dimensions and character;
 - 7) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety and compatibility with surrounding properties;
 - 8) Required yards and other open space;
 - 9) General compatibility with surrounding properties; and

CONDITIONS IMPOSED:

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

Conditions of Approval

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

- a. engineering drawings as needed,
 - b. projected wastewater flows, and
 - c. any easements, connections, and projected flows for Casa Cayo.
3. City approval is required for the stormwater management system prior to Building Permit Approval.
 4. Area 3 WWTP has only the capacity for the existing EDU's assigned to this property. No more capacity will be available until the plant is expanded.
 5. The applicant will provide fire protection plans in accordance with fire protection requirements as outlined by the City Fire Marshal (attached as Exhibit A)
 6. A Final Landscape Plan must be submitted showing the proper treatments and buffers, including the appropriate treatment types and trees.
 7. The final site plan must show that the dumpsters are screened.
 8. All signs shall be reviewed and approved for compliance with the City of Marathon LDR's.
 9. If the redevelopment is found to have any effect on the Eastern Indigo Snake Habitat, then the prescribed protection measures must be undertaken, and the information poster posted on site.
 10. All mangroves associated with the northern portion of the parcel, north of the access easement to Casa Cayo, shall remain intact and may not be removed per the City's protection provisions for Mangrove Habitats.
 11. Conservation Easement for mangrove area will be required pursuant to Section 106.02.
 12. Outdoor storage shall be incidental and subordinate to the primary use located on the property.
 13. Storage areas shall be located to the side or rear of the principal building and completely screened from view.
 14. Prior to the issuance of any permit under this article, special conditions may be imposed for such permit. These conditions should include any item which can be reasonably expected to enhance the probability that the proposed activity will be conducted in compliance with the intent of this article. Those conditions may include, but are not limited to, field inspections by City staff, reports, monitoring, bonding, easements, guaranteed survival of non-affected and/or replanted vegetation, protective barriers, setbacks, protective earthwork, replants, signage, restoration, and/or mitigation. Conditions may also be applied in order to ensure consistency with the Comprehensive Plan.
 15. It shall be unlawful for any person to deviate from the specific conditions of the permit as set forth by this article without the prior approval of the Planning Director or City Council as appropriate.
 16. The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.
 17. The Applicant must obtain or transfer five (5) housing units, to be transferred via the Transfer of Building Rights (TBR's), BPAS process, or any other legally established process prior to building permit issuance. **THE APPROVAL OF THE REQUESTED CONDITIONAL USE PERMIT AMENDMENTS DO NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF ANY TRANSIENT UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT.**
 18. Property lines must be reconfigured so that all duplex buildings and associated parking are within the same parcel.
 19. *A. General Provisions*
 1. Each hotel or motel shall comply with all mandatory hurricane evacuation requirements set forth by the City for hotel, motel, and other transient uses.
 2. Each hotel or motel shall establish and maintain shuttle transport services to airports and tourist attractions individually or in conjunction with other hotel or motel operators.
 3. Except as provided in Subsection (a), all hotel or motels shall provide on- or off-site employee housing living space in an amount equal to a minimum of 25 percent (as may be

adjusted from time to time by Council policy to reflect economic conditions) of the approved floor area in guest units; and such housing shall be of any of the following types as outlined in (b) below:

- a. An exception to the requirement for on- or off-site employee housing living space for hotel/motel redevelopment may be recommended by the Planning Director, the Planning Commission, and approved by the City Council as part of a conditional use and/or development agreement when the following criteria are met:
 - 1) No increase in the number of hotel/motel transient units (unit as described in Subsection 104.25A.4. of the LDRs);
 - 2) No use of transferable building rights (TBRs) (as described specifically in Subsection 107.14B. of the LDRs);
 - 3) No significant change (+ or - 10%) in the current project floor area (Floor area as defined in Chapter 110, Article 3 of the LDRs);
 - 4) No significant difference between the current and proposed uses of floor area;
 - 5) No effort to move units off-site through TBRs as part of the proposed project, though they may be documented and preserved for future use; and
 - 6) No significant change or increase in the size or type of project site amenities.
- b. *Housing types.*
 - 1) Dormitory pursuant to Section 104.15;
 - 2) Community Workforce Housing Unit pursuant to Section 104.13.
4. All entrances to a hotel or motel unit shall share the same key or means of controlling access so that the hotel or motel room as defined herein is not divisible into separately rentable units.
5. All hotels or motels must provide a lobby for guests to check in/out.

B. Redevelopment Criteria.

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

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

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

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

Brian Shea
Director of Planning

This Development Order was filed in the Office of the City Clerk of this ____ day of _____, 2025.

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 Florida Commerce 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.

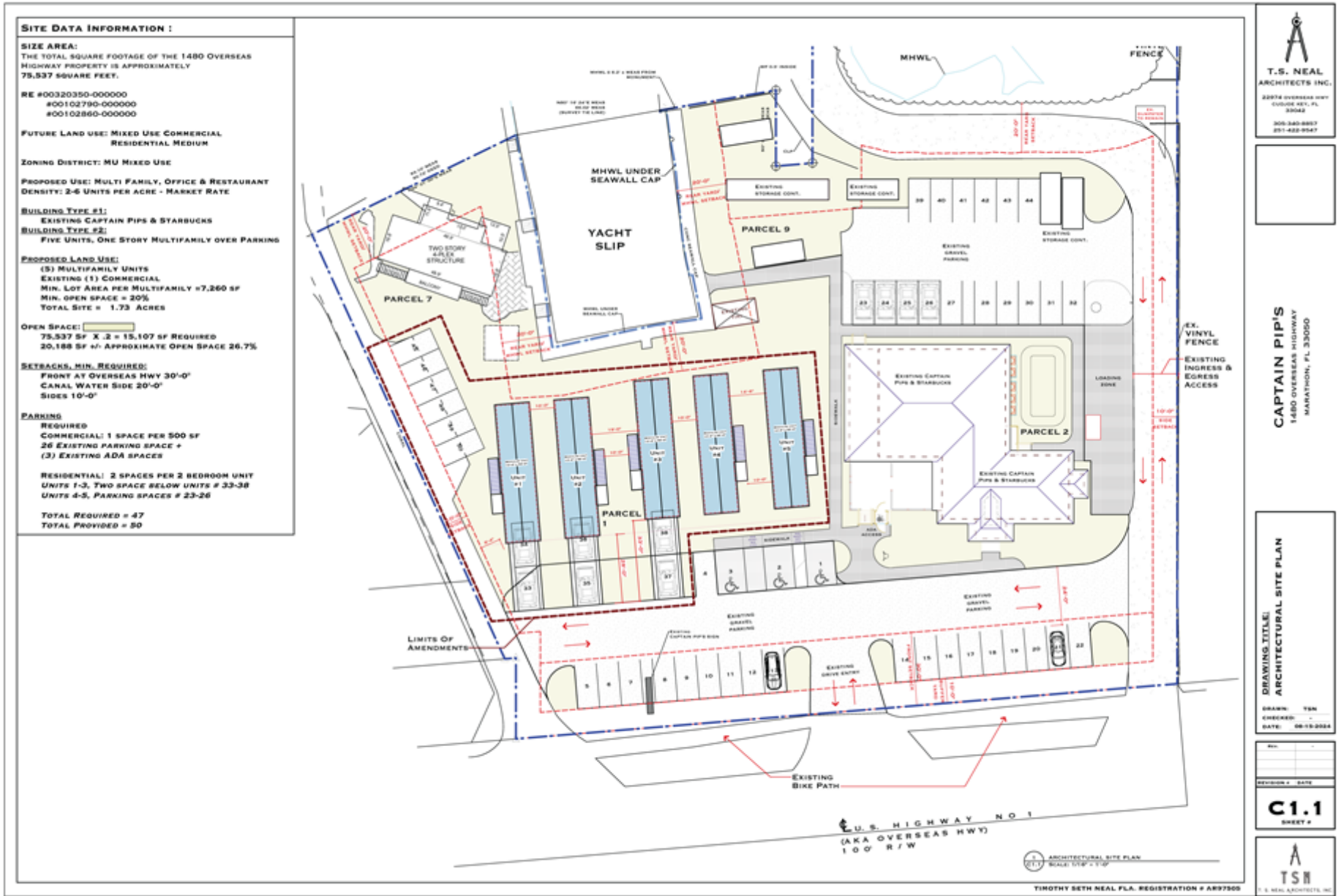
In addition, please be advised that this instrument shall not take effect for forty-five (45) days following the rendition to Florida Commerce. During that forty-five days, the Florida Commerce may appeal this instrument to the Florida Land and Water Adjudicatory Commission, and that such an appeal stays 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 Wharf Marina, Inc. 5628 Shaddelee Ln W Fort Myers FL 33919 this ___ day of _____, 2025.

Diane Clavier, City Clerk

Attachment 1: Site Plan



SITE DATA INFORMATION :

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

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

FUTURE LAND USE: MIXED USE COMMERCIAL
RESIDENTIAL MEDIUM

ZONING DISTRICT: MU MIXED USE

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

BUILDING TYPE #1:
EXISTING CAPTAIN PIPS & STARBUCKS

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

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

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

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

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

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

TOTAL REQUIRED = 47
TOTAL PROVIDED = 30



CAPTAIN PIPS
1480 OVERSEAS HIGHWAY
MARATHON, FL 33050

DRAWING TITLE:
ARCHITECTURAL SITE PLAN

DRAWN: TSN
CHECKED: []
DATE: 08-15-2024

NO.	DATE

C1.1
SHEET #



ARCHITECTURAL SITE PLAN
SCALE: 1/8" = 1'-0"
TIMOTHY SETH NEAL FLA. REGISTRATION # AB97500