



CITY COUNCIL AGENDA STATEMENT

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

Agenda Item: **Resolution 2025-13**, Consideration Of A Request By Wharf Marina, Inc. For A Development Agreement And A Conditional Use Permit, Pursuant To Chapter 102, Articles 8 And 13 Of The City Of Marathon Land Development Regulations (LDRs) Entitled “Development Agreement” And “Conditional Use Permits” Respectively, Authorizing The Development Of A Restaurant, Marina, Retail Shop, And Eleven (11) Transient Housing Units At The Property Located At 1622 Overseas Highway, Which Is Legally Described As 9 66 32 Key Vaccas Part Lot 2 & Bay Bottom North Of & Adjacent To Part Government Lot 2 (PT ST RD 4-A), Marathon, Monroe County, Florida, Having Real Estate Number 00102600-000000. Nearest Mile Marker 48.

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 is located at 1622 Overseas Highway at approximately mile marker 48. See Figure 1.

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

LOT SIZE:

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

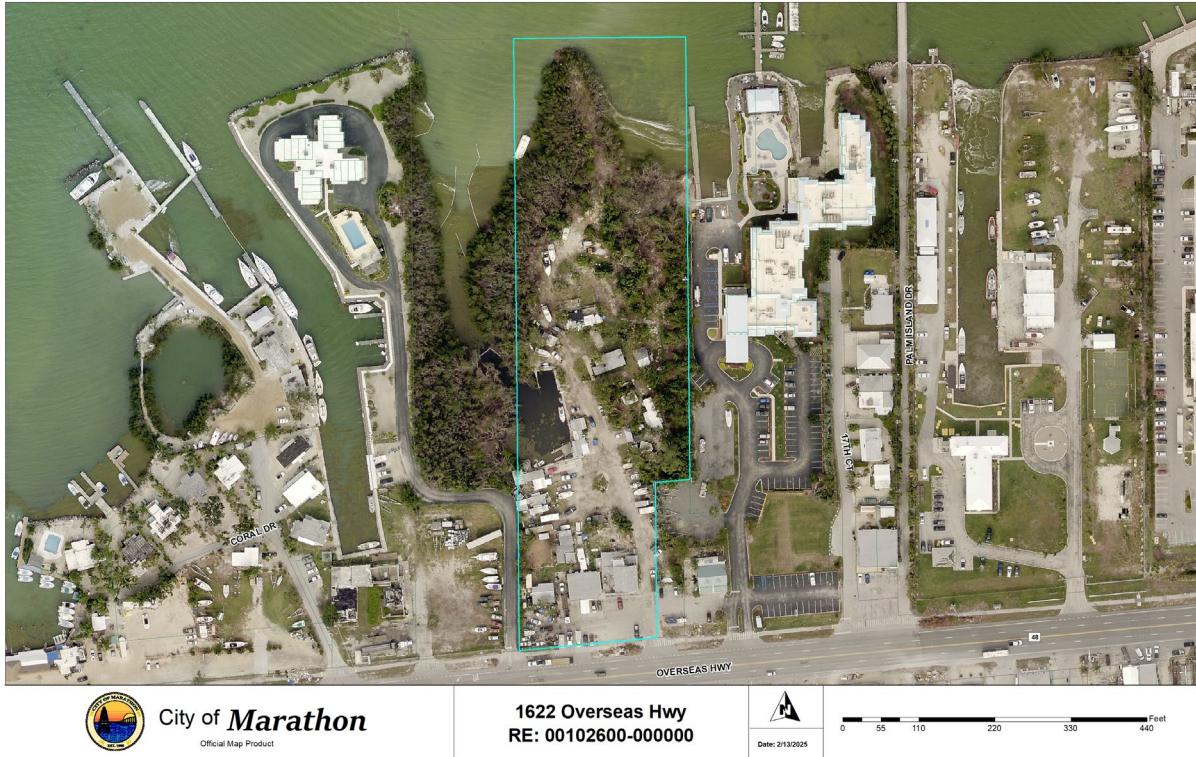
SURROUNDING ZONING AND USES:

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

EXISTING CONDITIONS:

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

**Figure 1
Project Site**



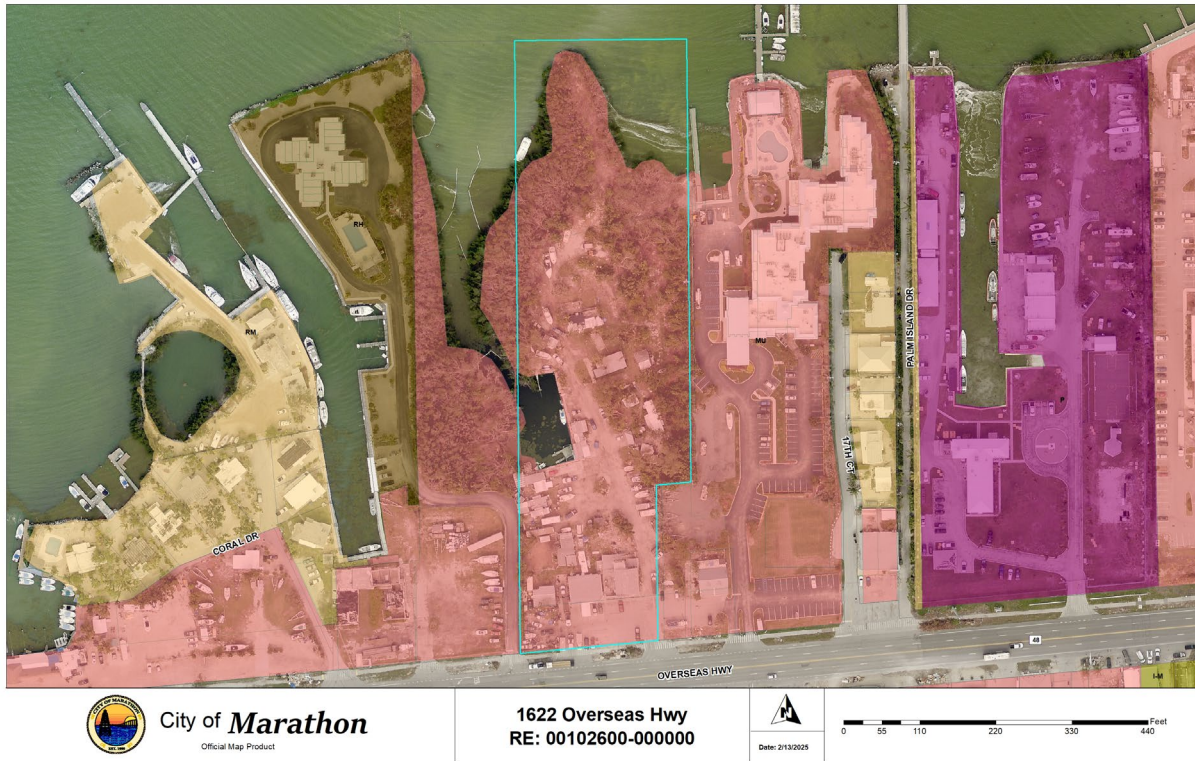
FUTURE LAND USE MAP DESIGNATION:
Mixed Use Commercial (MU-C). See Figure 2.

Figure 2
Future Land Use Map



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

Figure 3
Zoning Map

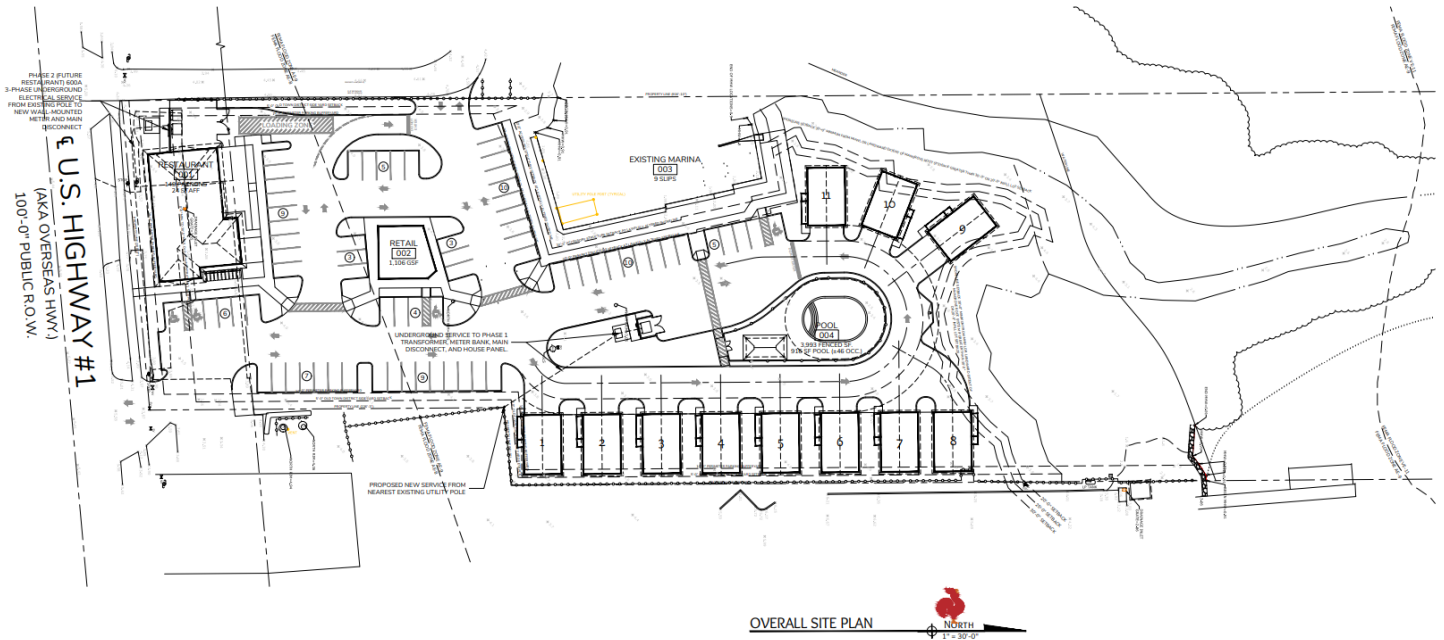


PROPOSED DEVELOPMENT:

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

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

**Figure 4
Proposed Site Plan**



CRITERIA

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

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

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

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

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

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

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

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

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

includes development of similar uses which is consistent with the Mixed-Use classification.

The existing land use pattern in the project vicinity consists of mixed use to the east and west, residential medium high to the south, and Gulf of Mexico to the north.

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

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

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

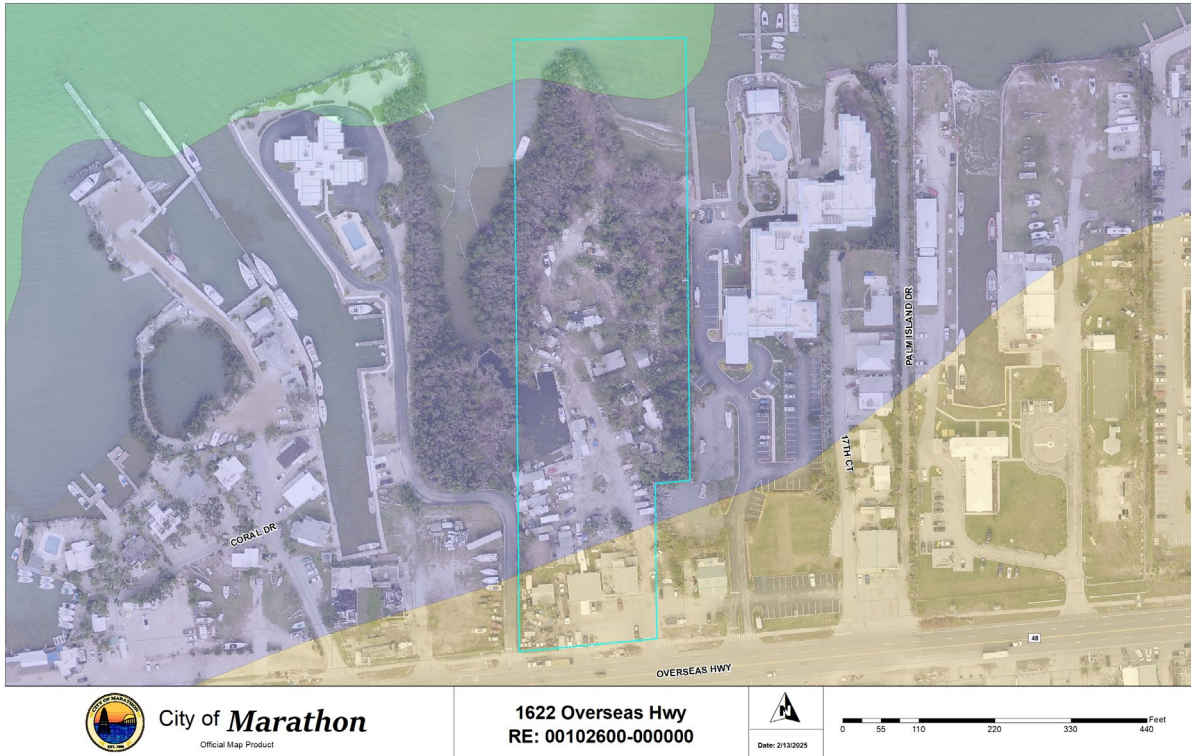
The proposed use is the creation of both commercial and transient use which has not had any known impact to the health, safety, and welfare of the public. Additionally, the creation of the retail and restaurant space are not expected to create any adverse impacts to the health, safety, and welfare of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

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

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

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

**Figure 5
Flood Zones**



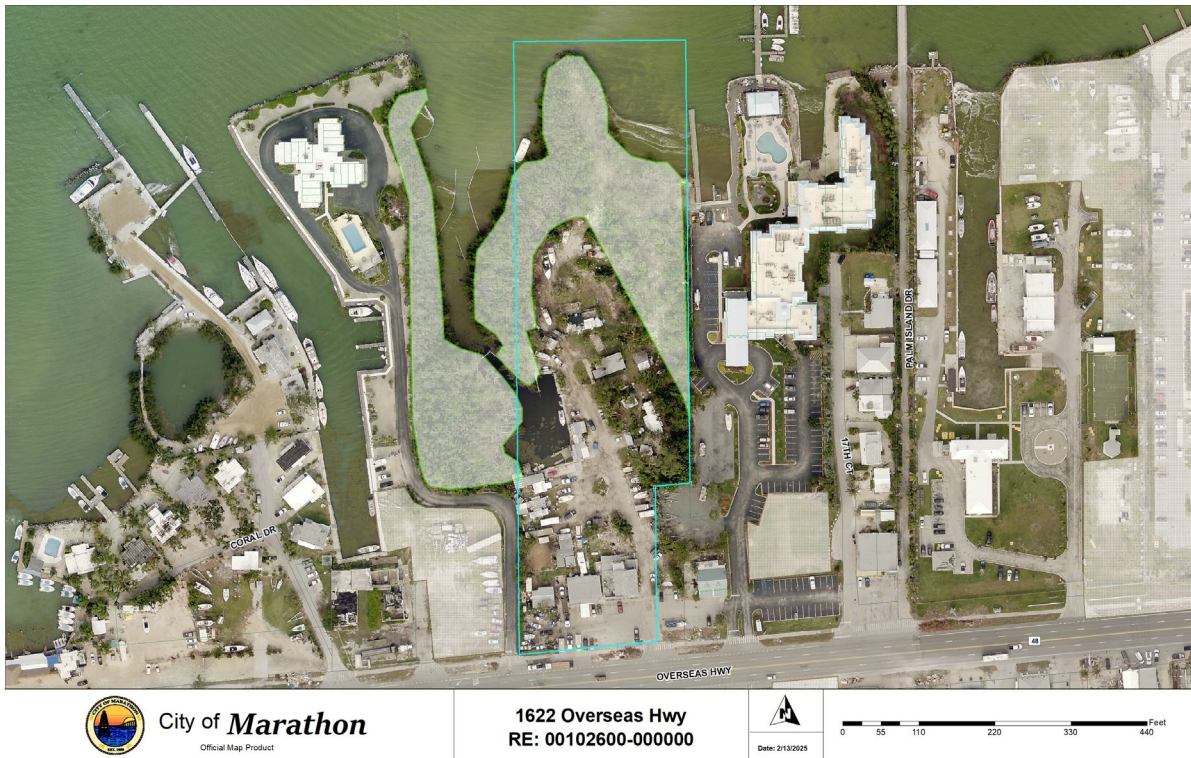
Therefore, with conditions, the request is ***in compliance*** with the requirements of these sections.

- Marina Operating Permit will be required.

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

The existing conditions maps indicate the subject area is designated as previously developed. A site inspection showed the property is comprised of upland, shoreline wetland and submerged lands. Most of the parcel is scarified. Both native and exotic vegetation are scattered predominantly in the center of the parcel. A meandering rock wall generally separated the uplands from the fringing wetlands. Fringing wetlands, including a wide mangrove fringe, are present. A portion of the property is recognized as possible habitat for a state or federally listed animal species, the eastern indigo snake. Figure 6 shows that this portion falls under the category of mangroves. Should any development necessitate the removal of existing native vegetation within these areas an impact determination will be made using the Species Assessment Guides.

Figure 6
FEMA-FWS Species Focus Area Map



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

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

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

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

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

- Staff requires that upon planning review, if the redevelopment is found to have any effect on the Eastern Indigo Snake Habitat, then the prescribed protection measures must be undertaken, and the information posted on site.
- A final Landscape/mitigation plan must be submitted prior to permit issuance.
- Conservation easement for mangrove area pursuant to Section 106.02.

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

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

The applicant has provided a breakdown of the proposed occupancy of the onsite buildings. The “Trip Generation Analysis” schedule provided by the traffic engineer shows that combined uses will create 51 net new daily trips. The submitted study finds that the proposed increase in units will not have an adverse impact on the operating characteristics of U.S. 1, nor will it inhibit the safe flow of traffic traveling through the City of Marathon.

Land Use	Size	Daily Trips	AM Peak Hour Trips			PM Peak Hour Trips		
			In	Out	Total	In	Out	Total
<i>Existing / Previous Uses</i>								
High-Turnover Sit-Down Restaurant ¹	3,000 SF	355	0	0	0	16	11	27
Automobile Service Center	2,000 SF	33	3	1	4	2	2	4
Mobile Homes	11 DU	77	1	3	4	4	2	6
Marina (Wet Slips)	9 Berths	23	0	1	1	1	1	2
Total		488	4	5	9	23	16	39
<i>Existing / Proposed Uses</i>								
Fine Dining Restaurant	149 Seats	375	2	1	3	28	14	42
Retail	1,020 SF	56	1	1	2	4	3	7
Transient Housing (Hotel)	11 Units	85	3	2	5	3	3	6
Marina (Wet Slips)	9 Berths	23	0	1	1	1	1	2
Total		539	6	5	11	36	21	57
Difference (Proposed - Previous)		51	2	0	2	13	5	18

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. Utilities, with reference to location and availability;

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

- Wastewater: The applicant will provide engineering drawings to support force main connection along US 1.
- Water: The Florida Keys Aqueduct Authority will provide potable water for the facility.
- Solid Waste: Marathon Garbage Service will provide solid waste disposal.
- Surface Water: The applicant has provided stormwater design information suitable for the Conditional Use application review which demonstrates compliance with City standards. However, a final stormwater plan will be required for building permit issuance.
- Recreation and Open Space: This redevelopment will have a de minimis impact on recreation and open space.
- Roadways: The applicant is developing the site with a higher intensity than was contained within the development; therefore, a traffic study is required to analyze the impact on transportation facilities. Furthermore, final site layout and traffic flow will be dependent on FDOT, City of Marathon Public Works, and City Fire Marshal analysis.
- Educational Facilities: This redevelopment will have a de minimis impact on educational facilities.

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

- City approval is required for the stormwater management system prior to Building Permit Approval.
- The Conditional Use Development Order will constitute the Certificate of Concurrency for

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

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

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

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

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

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

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

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

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

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

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

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

8. Required yards and other open space;

Section 106.16 established required open space for the project. The site is disturbed with exotics; therefore, a twenty percent open space requirement applies. This results in 31,828 square feet of pervious area (including landscape area).

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

9. General compatibility with surrounding properties; and

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

Section 107.40 restricts the height of buildings to 42' as measured from the crown of the roadway or unimproved grade. The final site plan must show the buildings' height.

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

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

Section 104.25 Hotels or Motels

The following criteria are applicable to this redevelopment:

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

A. General Provisions

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

use; and

- 6) No significant change or increase in the size or type of project site amenities.

b. *Housing types.*

- 1) Dormitory pursuant to Section 104.15;
 - 2) Community Workforce Housing Unit pursuant to Section 104.13.
4. All entrances to a hotel or motel unit shall share the same key or means of controlling access so that the hotel or motel room as defined herein is not divisible into separately rentable units.
 5. All hotels or motels must provide a lobby for guests to check in/out.

B. *Redevelopment Criteria.*

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

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

Section 104.30 Marina contains special requirements.

The following criteria are applicable to this redevelopment:

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

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

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

CONCLUSION:

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

The proposed development consists of the enhancement of property, as well as the development of new transient 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 Conditional Use Permit and Development Agreement allowing the development of the Restaurant/Bar, Marina, Retail Space and Transient housing units, 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) The applicant will provide fire protection plans in accordance with fire protection requirements as outlined by the City Fire Marshal;
- 2) The final site plan must show the required parking spaces with prior to permit issuance.
- 3) The final site plan must show the bicycle racks on site prior to permit issuance.
- 4) The applicant will meet all floodplain related requirements as part of the Building Permit process;
- 5) The applicant will provide engineering drawings to support force main connections along US 1.
- 6) Permit site plan must meet 25yr-72hr storm event per storm water code Section 107.88.
- 7) The applicant will obtain the required permits to fully enclose and screen the dumpster in accordance with Section 107.39;
- 8) The applicant will obtain sign permits for any signs erected on the property, as required under the Code; and
- 9) The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.
- 10) The Applicant must obtain or transfer five (5) housing units, to be transferred via the Transfer of Building Rights (TBR's), BPAS process, or any other legally established process prior to building permit issuance. THE APPROVAL OF THE REQUESTED CONDITIONAL USE PERMIT AMENDMENTS DO NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF ANY TRANSIENT UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT.
- 11) Staff requires that upon planning review, if the redevelopment is found to have any effect on the Eastern Indigo Snake Habitat, Stock Island Tree Snail and Keys Tree Cactus, then the prescribed protection measures must be undertaken, and the information poster posted on site.
- 12) Conservation easement for mangrove area will be required pursuant to Section 106.02.
- 13) A final Landscape/mitigation plan must be submitted prior to permit issuance.
- 14) A Final Landscape Plan must be submitted showing the proper treatments and buffers, including the appropriate treatment types and trees.
- 15) A Final Site Plan must be submitted showing the buildings meeting the required setbacks, parking locations, and access drives.
- 16) Prior to the issuance of the Certificate of Occupancy, the marina shall obtain and maintain a Marina Operating Permit, in compliance with all standards of Article 24, Chapter 102.
- 17) Prior to the issuance of any permit under this article, special conditions may be imposed for such permit. These conditions should include any item which can be reasonably expected to enhance the probability that the proposed activity will be conducted in compliance with the

intent of this article. Those conditions may include, but are not limited to, field inspections by City staff, reports, monitoring, bonding, easements, guaranteed survival of non-affected and/or replanted vegetation, protective barriers, setbacks, protective earthwork, replants, signage, restoration, and/or mitigation. Conditions may also be applied in order to ensure consistency with the Comprehensive Plan.

- 18) It shall be unlawful for any person to deviate from the specific conditions of the permit as set forth by this article without the prior approval of the City Manager.
- 19) Area 3 WWTP has only the capacity for the existing EDU's assigned to this property. No more capacity will be available until the plant is expanded.
- 20) The applicant must obtain Allocations for transient units.
- 21) Applicant will provide pedestrian sidewalk access.

22) *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. This will be located in the retail building.

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.



**CITY OF MARATHON, FLORIDA
RESOLUTION 2025-13**

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 RESTAURANT, MARINA, RETAIL SHOP, AND ELEVEN (11) TRANSIENT HOUSING UNITS AT THE PROPERTY LOCATED AT 1622 OVERSEAS HIGHWAY, WHICH IS LEGALLY DESCRIBED AS 9 66 32 KEY VACCAS PART LOT 2 & BAY BOTTOM NORTH OF & ADJACENT TO PART GOVERNMENT LOT 2 (PT ST RD 4-A), MARATHON, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00102600-000000. NEAREST MILE MARKER 48.

WHEREAS, Wharf Marina, Inc. (The “Applicant”) filed an Application on November 8th, 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 development of a restaurant, marina, retail space and eleven (11) transient housing units; 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 11th 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 2024-9, 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 11th 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 # 2024-9**

REQUEST FOR A CONDITIONAL USE PERMIT FOR WHARF MARINA, INC. FOR A DEVELOPMENT AGREEMENT AND A CONDITIONAL USE PERMIT, PURSUANT TO CHAPTER 102, ARTICLES 8 AND 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (LDRS) ENTITLED “DEVELOPMENT AGREEMENT” AND “CONDITIONAL USE PERMITS” RESPECTIVELY, AUTHORIZING THE DEVELOPMENT OF A RESTAURANT, MARINA, RETAIL SHOP, AND ELEVEN (11) TRANSIENT HOUSING UNITS AT THE PROPERTY LOCATED AT 1622 OVERSEAS HIGHWAY, WHICH IS LEGALLY DESCRIBED AS 9 66 32 KEY VACCAS PART LOT 2 & BAY BOTTOM NORTH OF & ADJACENT TO PART GOVERNMENT LOT 2 (PT ST RD 4-A), MARATHON, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00102600-000000. NEAREST MILE MARKER 48.

WHEREAS, Wharf Marina, Inc. (The “Applicant”) filed an Application on November 8th, 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 1622 Overseas Highway (RE 00102600-000000) which formerly consisted of developed land that was recently cleared; and

WHEREAS, the Applicant has proposed the development of a restaurant, marina, retail space and eleven (11) transient housing units; 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 11th 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 development of a restaurant, marina, retail space and transient

housing units (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) The applicant will provide fire protection plans in accordance with fire protection requirements as outlined by the City Fire Marshal;
- 2) The final site plan must show the required parking spaces with prior to permit issuance.
- 3) The final site plan must show the bicycle racks on site prior to permit issuance.
- 4) The applicant will meet all floodplain related requirements as part of the Building Permit process;
- 5) The applicant will provide engineering drawings to support force main connections along US 1.
- 6) Permit site plan must meet 25yr-72hr storm event per storm water code Section 107.88.
- 7) The applicant will obtain the required permits to fully enclose and screen the dumpster in accordance with Section 107.39;
- 8) The applicant will obtain sign permits for any signs erected on the property, as required under the Code; and

- 9) The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.
- 10) The Applicant must obtain **or transfer five (9) 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 RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT.
- 11) Staff requires that upon planning review, if the redevelopment is found to have any effect on the Eastern Indigo Snake Habitat, Stock Island Tree Snail and Keys Tree Cactus, then the prescribed protection measures must be undertaken, and the information poster posted on site.
- 12) Conservation easement for mangrove area will be required pursuant to Section 106.02.
- 13) A final Landscape/mitigation plan must be submitted prior to permit issuance.
- 14) A Final Landscape Plan must be submitted showing the proper treatments and buffers, including the appropriate treatment types and trees.
- 15) A Final Site Plan must be submitted showing the buildings meeting the required setbacks, parking locations, and access drives.
- 16) Prior to the issuance of the Certificate of Occupancy, the marina shall obtain and maintain a Marina Operating Permit, in compliance with all standards of Article 24, Chapter 102.
- 17) Prior to the issuance of any permit under this article, special conditions may be imposed for such permit. These conditions should include any item which can be reasonably expected to enhance the probability that the proposed activity will be conducted in compliance with the intent of this article. Those conditions may include, but are not limited to, field inspections by City staff, reports, monitoring, bonding, easements, guaranteed survival of non-affected and/or replanted vegetation, protective barriers, setbacks, protective earthwork, replants, signage, restoration, and/or mitigation. Conditions may also be applied in order to ensure consistency with the Comprehensive Plan.
- 18) It shall be unlawful for any person to deviate from the specific conditions of the permit as set forth by this article without the prior approval of the City Manager.
- 19) Area 3 WWTP has only the capacity for the existing EDU's assigned to this property. No more capacity will be available until the plant is expanded.
- 20) The applicant must obtain Allocations for transient units.
- 21) *A. General Provisions*
 1. Each hotel or motel shall comply with all mandatory hurricane evacuation requirements set forth by the City for hotel, motel, and other transient uses.
 2. Each hotel or motel shall establish and maintain shuttle transport services to airports and tourist attractions individually or in conjunction with other hotel or motel operators.
 3. Except as provided in Subsection (a), all hotel or motels shall provide on- or off-site employee housing living space in an amount equal to a minimum of 25 percent (as may be adjusted from time to time by Council policy to reflect economic conditions) of the approved floor area in guest units; and such housing shall be of any of the following types as outlined in (b) below:
 - a. An exception to the requirement for on- or off-site employee housing living space for hotel/motel redevelopment may be recommended by the Planning Director, the Planning Commission, and approved by the City Council as part of a conditional use and/or development agreement when the following criteria are met:
 - 1) No increase in the number of hotel/motel transient units (unit as described in Subsection 104.25A.4. of the LDRs);
 - 2) No use of transferable building rights (TBRs) (as described specifically in

Subsection 107.14B. of the LDRs;

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

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. 12565 Overseas Hwy, Marathon FL 33050 this ___ day of _____, 2025.

Diane Clavier, City Clerk

Attachment 1: Site Plan

