

Sponsored By: Joseph and Mary Farrugia

Introduction Date: March 15, 2004

Public Hearing Date: March 15, 2004
March 23, 2004

Enactment Date: March 23, 2004

ORDINANCE 2004-07

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA AMENDING THE FUTURE LAND USE (FLUM) FROM RESIDENTIAL LOW (RL) TO RESIDENTIAL HIGH (RH) FOR PROPERTY DESCRIBED AS PART OF KEY VACA, PART GOVERNMENT LOT 1 (F/K/A MARATHON SHORES PB 2-118 AND TRACT 1 EDMONDS ACREAGE TRACTS PB 2-100, OR1325), SECTION 11, TOWNSHIP 66 SOUTH, RANGE 32 EAST, AS MORE PARTICULARLY DESCRIBED IN THE ATTACHED EXHIBIT "A"; WHICH IS LOCATED OCEAN SIDE AT APPROXIMATELY 71ST STREET OCEAN; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF COMMUNITY AFFAIRS; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF COMMUNITY AFFAIRS.

WHEREAS, pursuant to the provisions of Chapters, 163, 166 and 380 *Florida Statutes*, the City of Marathon, Florida (the "City") proposes to amend the City Future Land Use District (the "Map") to change the future land use map designation of property owned by Joseph and Mary Farrugia, legally described as part of Key Vaca, part Government Lot 1 (f/k/a Marathon Shores PB 2-118 and Tract 1 Edmonds Acreage Tracts PB 2-100, or1325), Section 11, Township 66 South, Range 32 East, as more particularly described in the attached exhibit "A"; and

WHEREAS, amending the Map designation of the Property furthers the goals, objectives and policies of the City Comprehensive Plan (the "Plan"), and will allow for the development of the Property to provide needed affordable housing in the City; and

WHEREAS, pursuant to Sections 9.5-24, 9.5-226 and 9.5-511 of the City Code (the "Code"), the City's Development Review Committee has reviewed the proposed Map amendment to determine its compliance and consistency with the goals, objectives, and policies of the Plan and Section 9.5-511 of the Code; and

WHEREAS, pursuant to Chapter 163, *Florida Statutes*, and Sections 9.5-22 and 9.5-511 of the Code, the Planning Commission sitting as the Local Planning Agency has publicly considered the proposed Map amendment at a duly noticed public hearing, and has recommended approval of the proposed Map amendment to the City Council; and

WHEREAS, in accordance with Section 166.041, *Florida Statutes*, notice of the public hearings concerning the proposed Map amendment has been provided to the general public; and

WHEREAS, the City Council finds that approval of the proposed Map amendment is in the best interest of the City and complies with applicable laws and is consistent with the South

Florida Regional Plan, the State Plan, Chapter 163, *Florida Statutes*, the principles for guiding development in the Florida Keys Area of Critical State Concern, the goals, objectives, and policies of the Plan, Section 9.5-511 of the Code and promotes and protects the health, safety and welfare of the residents of the City; and

WHEREAS, the City Council desires to approve the proposed Map amendment, in accordance with State law.

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

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

Section 2. In accordance with State law and the Code, the Map designation of the Property is amended from its current designation of Residential Low (RL) to Residential High (RH).

Section 3. The City shall timely transmit the revised Map reflecting the Map amendment, and all data and analysis supporting the Map amendment, to the State of Florida Department of Community Affairs, in its capacity as the State Land Planning Agency (the "Department"), as required by Chapters 163 and 380, *Florida Statutes*.

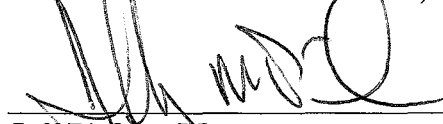
Section 4. That upon its effective date, the revised Map shall replace the Monroe County Future Land Use Map, previously applicable to the City pursuant to Sections 163.3167(4), 380.05(10) and 380.0552(9), *Florida Statutes*, and Section 9(6) of the City Charter to the fullest extent allowed by law.

Section 5. The provisions of this Ordinance constitute a "land development regulation" as State law defines that term. Accordingly, the City Clerk is authorized to forward a copy of this Ordinance to the Department of Community Affairs for approval pursuant to Sections 380.05(6) and (11), *Florida Statutes*.

Section 6. That this Ordinance shall be effective immediately upon approval by the State Department of Community Affairs pursuant to Chapter 380, *Florida Statutes*.

ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, this 23rd day of March 2004.

THE CITY OF MARATHON, FLORIDA



Jeff Pinkus, Mayor

AYES: Miller, Pinkus, Bull, Bartus, Mearns

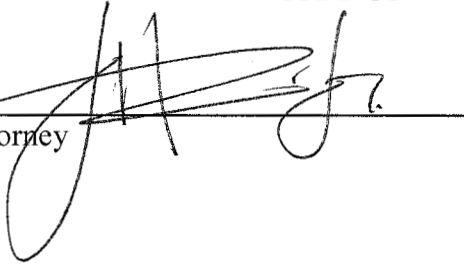
NOES: None
ABSENT: None
ABSTAIN: None

ATTEST:



Cindy L. Ecklund
City Clerk

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



City Attorney

EXHIBIT "A"

A parcel of land in Section 11, Township 66 South, Range 32 East, Key Vaca, Monroe County, Florida, more particularly described as follows: Commencing at the intersection of the East line of said Section 11 and the Southeasterly right of way line of U.S. Highway 1; thence continue South along the said East line of Section 11 for 285 feet to the Point of Beginning; thence continue South for 854.00 feet; thence West for 231.55 feet; thence North for 854.00 feet; thence East for 231.55 feet to the Point of Beginning.

Containing 197,744 square feet or 4.54 acres, more or less.



CITY OF MARATHON, FLORIDA

10045-55 Overseas Highway, Marathon, Florida 33050

Phone: (305) 743-0033 Fax: (305) 743-3667

March 25, 2004

Mr. Ray Eubanks
Florida Department of Community Affairs, Division of Community Planning
Plan Processing Team
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100

**Subject: City of Marathon
Small Scale Comprehensive Plan Amendment**

Dear Mr. Eubanks:

The City of Marathon hereby submits an adopted small-scale amendment in accordance with Section 163.3187(1)(c), F.S. This small-scale amendment affects approximately 4.5 acres of land as shown on the attached map. The City has not approved any other small-scale amendments this calendar year; therefore, the cumulative total number of acres for small-scale amendments the City has approved this calendar year is approximately 4.5 acres.

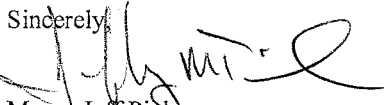
This small scale amendment has been adopted pursuant to Section 163.3187(1)(c)e, F.S. The project subject to the proposed amendment involves the construction of affordable housing units meeting the criteria of Section 420.004(3), F.S. We understand that the small scale amendment shall be reviewed by the state land planning agency for consistency with the principles for guiding development applicable to the area of critical state concern where the amendment is located and shall not become effective until a final order is issued under Section 380.05(6), F.S.

The City's contact person is: Ms. Gail Kenson, AICP, Planning Manager
City of Marathon
10045-55 Overseas Highway
Marathon, Florida 33050
305-289-4111 (phone), 305-743-3667 (fax)
kensong@ci.marathon.fl.us

The following information is attached for your review:

- One copy of the executed ordinance adopting the small scale amendment
- A Future Land Use Map depicting the newly adopted designation and boundaries and location of the subject property in relationship to the surrounding street and thoroughfare network.
- A copy of the public hearing notice of adoption hearing
- Form RPM-BSP-Small Scale-1

Sincerely,


Mayor Jeff Pinkus

cc: DCA Regional Office - Marathon
South Florida Regional Planning Counsel
Donald Leland Craig, AICP
encs.

9J-11 TRANSMITTAL REQUIREMENTS FOR THE SUBMISSION OF ADOPTED SMALL- SCALE COMPREHENSIVE PLAN AMENDMENTS

November 2001

NUMBER OF COPIES TO BE SUBMITTED: Please submit one copy of the adopted small-scale amendment package to the Florida Department of Community Affairs and one copy each to the appropriate Regional Planning Council and any other local government or governmental agency in the state of Florida that has filed a written request with the local government.

SUBMITTAL LETTER REQUIREMENTS: Please include the following information in the transmittal cover letter transmitting the adopted small-scale amendment (9J-11.015(1), F.A.C.):

A statement indicating that the local government is submitting the adopted small-scale amendment in accordance with Section 163.3187(1)(c), F.S.;

A statement identifying the number of acres of the small-scale amendment;

A statement identifying the cumulative total number of acres for small-scale amendments the local government has approved for the calendar year;

The name, title, address, telephone and fax number of the local contact person.

ADOPTION: The amendment package must include the following (see 9J-11.015(1), (2), F.S.):

One copy of the executed ordinance(s) adopting the small-scale development amendment (Rule 9J-11.015(1), F.A.C.);

A Future Land Use Map depicting the newly adopted designation and boundaries and location of the subject property in relationship to the surrounding street and thoroughfare network (Rule 9J-11.015(2), F.A.C.);

Copy of the public hearing notice of adoption hearing Rule 9J-11.015(2), F.A.C.;

Other supporting information relative to the amendment (Rule 9J-11.015(2), F.A.C.);

Form RPM-BSP-Small Scale-1 (Rule 9J-11.015(2), F.A.C.).

**SMALL SCALE DEVELOPMENT
AMENDMENT
SUBMITTAL FORM**

1. Name of Local Government City of Marathon
Person completing this form Gail Kenson Phone number 305.289.4111
Name of newspaper where notice of small scale development amendment was published _____
Key West Citizen

Date publication noticed February 29, 2004
(Please attach a copy of the notice)

2. Number of acres of small scale development amendments contained in package:
a. Within Urban Infill, Urban Redevelopment or Downtown Revitalization as defined by Section 163.3164, *Florida Statutes (F.S.)*. _____
b. Within Transportation Concurrency Exception Area pursuant to Section 163.3180, *F.S.* _____
c. Within Regional Activity Centers or Urban Central Business Districts pursuant to Section 380.06(2)(e), *F.S.* _____
d. Outside categories a., b., and c. 4.5

3. Cumulative total number of acres of small scale development amendments for the calendar year:
a. Categories listed in Item 2, a., b., and c. above. _____
b. Categories listed in Item 2, d. above. 4.5

4. Total number of acres of small scale development amendments in this package that are located within a coastal high hazard area as identified in the comprehensive plan. 4.5

Pursuant to Rule 9J-11.015(2), *Florida Administrative Code*, this form must be mailed with all small scale development amendments as defined by Section 163.3187(1)(c), *F.S.* to:

Department of Community Affairs
Bureau of State Planning
Plan Processing Section
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100
(850) 488-4925

Mary Beth Canitano
 Advertising Coordinator

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 Tel 305-292-1880
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 sales@keywest.com

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 Marathon, FL (MM 52.5)
 33050-3342
 Tel 305-743-8766
 Fax 305-743-9977
 navigator@floridakeys.com

Upper Keys Office
 81549 Old Hwy
 PO Box 469
 Islamorada, FL (MM81.5)
 33036-0469
 Tel 305-664-2266
 Fax 305-664-8411
 freepress@floridakeys.com


Ocean Reef Office
 3A Barracuda Lane
 Key Largo, FL 33037
 Tel 305-367-4911
 Fax 305-367-2191

STATE OF FLORIDA
 COUNTY OF MONROE

Before the undersigned authority personally appeared Randy G. Erickson, who on oath says that he is Vice-President of Advertising Operations of the Key West Citizen, a daily newspaper published in Key West, in Monroe County, Florida; that the attached copy of advertisement, being a legal notice in the matter of Change of Future Land Use

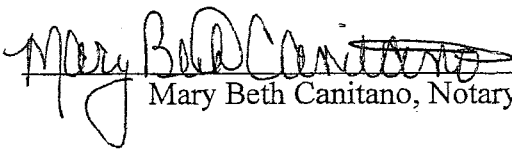
In the _____ Court, was published in said newspaper in the issues of February 29, 2004

Affiant further says that the Key West Citizen is a newspaper published in Key West, in said Monroe County, Florida and that the said newspaper has heretofore been continuously published in said Monroe County, Florida every and has been entered as second-class mail matter at the post office in Key West, in said Monroe County, Florida, for a period of 1 year next preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.



 Signature of Affiant

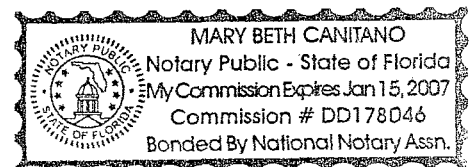
Sworn and subscribed before me this 1 day of March, 2004



 Mary Beth Canitano, Notary Public

Expires: January 15, 2007

Notary Seal

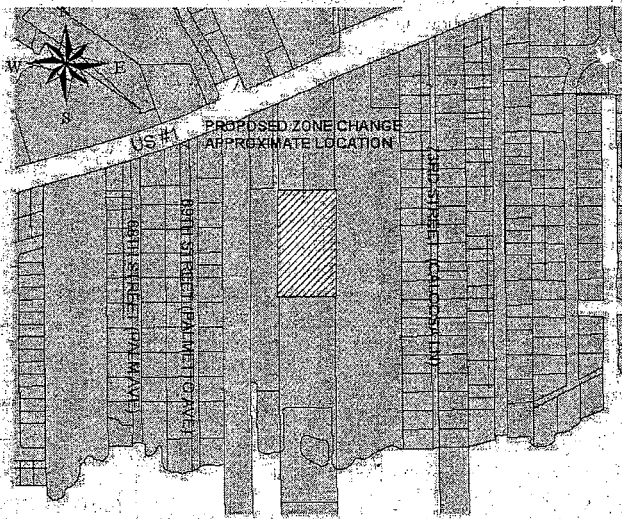


Personally Known x Produced Identification _____
 Type of Identification Produced _____

CITY OF MARATHON, FLORIDA
NOTICE OF PUBLIC HEARINGS
CHANGE OF FUTURE LAND USE (FLUM)
MAP AND LAND USE (ZONING)
MAP DESIGNATIONS

The Marathon Planning Commission, in its capacity as the Local Planning Agency will hold a public hearing on March 15, 2004 at 6:30 p.m., at the Marathon Government Center, 2798 Overseas Highway. The purpose of the public hearing is to consider and make recommendations to the Marathon City Council regarding the below ordinances. **PLEASE NOTE** the City of Marathon City Council will hold a public hearing on March 15, 2004 (First Reading) and March 23, 2004 (Second Reading and Adoption) at 6:30 p.m., at the Marathon Government Center, 2798 Overseas Highway. The purpose of the public hearings is to consider the adoption of the below ordinances:

1. AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA AMENDING THE FUTURE LAND USE (FLUM) MAP OF THE CITY OF MARATHON, CHANGING THE FUTURE LAND USE FROM RESIDENTIAL LOW (RL) TO RESIDENTIAL HIGH (RH) FOR PROPERTY DESCRIBED AS PART OF KEY VACA PT GOVERNMENT LOT 1 (F/K/A MARATHON SHORES PB 2-118 AND TRACT 1 EDMONDS ACREAGE TRACTS PB 2-100, OR1325), SECTION 11, TOWNSHIP 66 SOUTH, RANGE 32 EAST, AS MORE PARTICULARLY DESCRIBED IN THE ATTACHED EXHIBIT "A"; WHICH IS LOCATED OCEAN SIDE AT APPROXIMATELY 71ST STREET OCEAN; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF COMMUNITY AFFAIRS; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF COMMUNITY AFFAIRS.
2. AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA AMENDING THE LAND USE DISTRICT (ZONING) MAP OF THE CITY OF MARATHON, CHANGING THE ZONING FROM SUB URBAN RESIDENTIAL (SR) TO URBAN RESIDENTIAL (UR) FOR PROPERTY DESCRIBED AS PART OF KEY VACA PT GOVERNMENT LOT 1 (F/K/A MARATHON SHORES PB 2-118 AND TRACT 1 EDMONDS ACREAGE TRACTS PB 2-100, OR1325), SECTION 11, TOWNSHIP 66 SOUTH, RANGE 32 EAST, AS MORE PARTICULARLY DESCRIBED IN THE ATTACHED EXHIBIT "A"; WHICH IS LOCATED OCEAN SIDE AT APPROXIMATELY 71ST STREET OCEAN; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF COMMUNITY AFFAIRS; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF COMMUNITY AFFAIRS.



Interested parties may appear at the public hearing(s) and be heard with respect to the proposed Ordinances. A copy of the Ordinances and corresponding applications are available from the City of Marathon Planning Department located at 10045-55 Overseas Highway, Marathon, Florida, Monday through Friday between the hours of 8:00 am and 5:00 pm.

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

ADA Assistance: Anyone needing special assistance at the Planning Commission or the City Council hearing due to disability should contact the City of Marathon at (305) 743-3000 at least two days prior thereto.

BACKGROUND

This is a FLUM map amendment request from RL to RH on a parcel described as part of Key Vaca, part Government Lot 1 (f/k/a Marathon Shores PB 2-118 and Tract 1 Edmonds Acreage Tracts PB 2-100,OR 1325). Exhibit "A" of the attached resolution contains the full metes and bounds description. The subject parcel is located on the Ocean side of US 1 at approximately 71st Street Ocean, more generally located between the Wooden Spoon Restaurant and Trailer Ranch by the Sea Mobile Home Park, approximately Mile Marker 51.5. A separate application to for a zone change from Suburban Residential (SR) to Urban Residential (UR) has been submitted to the City of Marathon Planning Department.

The purpose of the application is to develop an 84 unit affordable housing development known as Falcon Pass. The Falcon Pass development is intended to provide rental housing for households with an income range of 30% to 60% of the Monroe County Median Income which is currently \$56,500.

Data from Shimberg Center for Affordable Housing Data Clearing House indicates that 674 owner occupied households and 655 renter occupied households are cost burdened. This is a total of 1329 households which pay 30 percent or more of their adjusted gross income for housing costs. The information in the following table is provided by the Shimberg Center for the City of Marathon and illustrates for the Year 2002 the breakdown of housing costs for owner and renter occupied housing.

CITY OF MARATHON SHIMBERG CENTER FOR AFFORDABLE HOUSING COST BURDEN ANALYSIS			
Year	Tenure	Cost Burden	Household Count
2002	owner	<30%	2270
2002	owner	30-39%	302
2002	owner	40-49%	119
2002	owner	50+ %	253
2002	renter	<30%	1071
2002	renter	30-39%	242
2002	renter	40-49%	124
2002	renter	50+ %	289
Total Households			4670

Availability of Land Zoned UR

Currently within the City of Marathon there is approximately 112.35 acres of land zoned UR. Approximately 31.14 acres are vacant. A complete analysis will be required to determine whether or not the all 31.14 acres are environmentally disturbed lots suitable for development.

APPLICATION DATA

Owner/Agent Information

Property Owners: Joseph and Mary Farrugia
Agent: Donald Craig, AICP, The Craig Company

Property Information

Physical Location: Ocean side of US 1 at approximately 71st Street Ocean, more generally located between the Wooden Spoon Restaurant and Trailer Ranch By The Sea Mobile Home Park, approximately Mile Marker 51.5

Legal Description: A portion of the parcel known as Key Vaca Part Government Lot 1 (F/K/A Marathon Shores PB 2-118 and Tract 1 Edmonds Acreage Tracts PB 2-100, OR1325), Section 11, T66S R32E. (Real Estate Number 00103560-000200)

Land Use/Zoning Information

Future Land Use Map Designation

Existing: Residential Low (RL)
Proposed: Residential High (RH)

Land Use (Zoning) District Designation

Existing: Suburban Residential (SR)
Proposed: Urban Residential (UR)

Surrounding Land Use (Zoning) District Designations

North: Suburban Residential (SR), Suburban Commercial (SC) (across US 1)
East: Suburban Residential (SR) and Urban Residential Mobile Home (URM)
South: Suburban Residential (SR)
West: Suburban Residential (SR) and Urban Residential Mobile Home (URM)

Existing Land Use of Property

Existing: Vacant
Proposed: Affordable Housing

Neighboring Land Uses and Character

A mix of vacant and improved residential and commercial uses surround the subject property: The surrounding area includes Trailer Ranch by the Sea mobile home park (to the east), The Wooden Spoon restaurant (to the northwest) and single-family homes and vacant residentially zoned parcels (to the west), Coconut Cay Resort (across US 1 to the north), and the west end of the Marathon Airport runway to the northeast.

North: Vacant (immediately north) and developed commercial properties
East: Vacant and Mobile Home Park
South: Vacant, Atlantic Ocean
West: Vacant, developed residential and commercial properties

Existing Habitat

The existing conditions maps indicate the property is designated as disturbed with exotics. A biological assessment, submitted as part of the application, confirms the information on the existing conditions map. The predominant species on the parcel consist of invasive exotic vegetation with small patches of native vegetation. The property is not recognized habitat to any state or federally listed animal species and is not within C.A.R.L. or critical habitat area.

FEMA

The property is within the AE6, AE7, AE8, and AE9 flood zones pursuant to the FIRM panel 1579J map, effective date February 15, 2002.

Zoning and Land Use History

There has been no zoning or land use action taken on this property since the adoption of the 1986 Monroe County Comprehensive Plan, Future Land Use Maps, and Land Use (Zoning) District Maps.

ANALYSIS OF ZONE CHANGE REQUEST

As previously stated Section 9.5-511(d)(5)(b) of the Land Development Regulations requires that each of the following six factors be addressed as a rationale for a change in the Future Land Use Map designation and/or Land Use District designation. Each factor an explanation of relevance to this application is listed below:

1. *Changed Projections (e.g., regarding public service need(s))*

The existing Future Land Use and Land Use (Zoning) designations were established with the adoption of the Monroe County 1986 Comprehensive Plan. At that time the analysis of future land use and zoning designations were done on a county-wide basis. It can be argued that at that time the analysis was of the need for location Residential High (RH) future land use districts and Urban Residential (UR) zoning districts was faulty. Marathon, at that time, had numerous resorts, hotels, motels, restaurants, as well as two grocery stores, discount department stores, a thriving construction industry and thriving tourist industry. These types of businesses generated the need for additional housing, both rental and owner occupied for their employees. Based on the existing businesses and industries located in Marathon in the 1980's, the amount of RH and UR designated parcels was not and is still not sufficient for the needs of the community.

In addition to lack of RH and UR, the City of Marathon permits the use of dwelling units as vacation rentals. There are approximately 250 dwelling units within the City that are currently being used as vacation rental uses. The use of dwelling units as vacation rentals reduces the number of dwelling units available.

2. *Changed Assumptions (regarding demographic trends)*

With the designation of Area of Critical State Concern, Monroe County and adoption of the 1985 Comprehensive Plan, Monroe County was mandated to provide affordable housing solutions for the

residents of Monroe County. There have been no significant strides made in the area of affordable housing within the City of Marathon with the exception of the East Winds housing development. Once the Rate of Growth Ordinance (ROGO) was adopted, twenty percent of all ROGO allocations were set aside for affordable housing. ROGO, while setting aside affordable housing allocations, has been unsuccessful in aiding the development of affordable housing because it is extremely difficult to amass sufficient allocations to building more than a two or three units at a time, therefore losing the cost benefits of building large housing developments.

Several affordable housing studies for Monroe County have been done over the past twenty years. The Shimberg Center for Affordable Housing, located at the University of Florida completed their latest study completed in 2000 indicates that the State of Florida, including Monroe County and Marathon, has an affordable housing crisis. The study further states that 5,000 families within Monroe County, approximately 1300 of those families are live within the City of Marathon are cost-burdened. A family that is considered to be cost-burdened is one which pays more than thirty percent of the annual household income for rent or mortgage (principal, interest, taxes, and insurance) payments.

The 2000 Census states that the median household income for the City of Marathon is \$36,010. A household earning \$36,010 annually is considered cost-burdened if they are paying more than \$10,803 per year or \$900 per month in rent or mortgage payments. The Census further states that approximately 38 percent of households renting in the City of Marathon are cost-burdened.

The County was not able to develop an effective solution to the affordable housing problem, especially by designating the property in discussion for low density uses. Now that Marathon is separate from the County, steps should be taken to create a solution to the problem rather than adding to it. If the property is developed under the current zoning, the applicant believes high-end housing that is too expensive for affordable housing purposes will be developed, thus contributing to housing unaffordability. By allowing higher density uses on this property, the City will be taking positive steps towards an effective affordable housing solution.

3. *Data Errors*

The following may be considered as errors in the existing data being used by the City.

- a. This zoning was developed from a county-wide perspective. Unfortunately, this zoning is not appropriate when viewed within the context of Marathon alone.
- b. This vacant property is surrounded by urban development of much higher densities. Thus it does not merit a designation applied to open land suburban character, since that is not, in fact, the character of the area.

Due to the fact the current zoning was established by the County before Marathon became its own city, the zoning was not developed within the context of Marathon alone. Therefore this zoning might have been appropriate at a larger scale, but is appropriate when evaluated within the context of incorporation.

4. *New Issues*

The applicant feels that since Marathon is a relatively new City, it now has to address housing affordability within City limits. Additionally, the applicant feels that since incorporation, affordability has decreased rather than improve and continues to become a larger issue. Since the City is now separate from the County, Marathon will need to take measures toward correcting this problem, such as allowing higher density residential areas in appropriate parts of the City.

5. *Recognition of a Need for Additional Detail or Comprehensiveness*

Not applicable to this application.

6. *Data Updates*

Not applicable to this application.

DEVELOPMENT ANALYSIS

Current: Residential Low (RL), Suburban Residential (SR)

The purpose of the Residential Low (RL) land use designation is to provide for low-density residential development in partially developed areas with substantial native vegetation (Policy 101.4.5).

The purpose of the Suburban Residential (SR) district is to establish areas of low- to medium-density residential uses characterized principally by single-family detached dwellings. (Sec. 9.5-207).

Proposed: Residential High (RH), Urban Residential (UR)

The purpose of the Residential High (RH) land use designation is to provide for high-density single-family, multi-family, and institutional residential development, including mobile homes and manufactured housing, located near employment centers (Policy 101.4.4).

The purpose of the Urban Residential (UR) district is to provide areas appropriate for high-density residential uses designed and intended for occupancy by persons gainfully employed in the Florida Keys and to create areas to provide for vacation rental use of detached dwellings, duplexes, and multifamily dwellings (Sec. 9.5-204). A density bonus of 25 units per acre is allowed in this zone if the units are designated as affordable housing.

SUBURBAN RESIDENTIAL	URBAN RESIDENTIAL
Allowed Uses	Allowed Uses
Detached Dwelling Units	Detached Dwelling Units
Community Parks	Public Buildings and Uses
Beekeeping	Home Occupations
Home Occupations	Accessory Uses
Accessory Uses	Vacation Rentals
Vacation Rentals	Attached Wireless Communication Facilities
Wastewater Treatment Facilities	Wastewater Treatment Facilities
Minor Conditional Uses	Minor Conditional Uses
Attached Residential Dwellings, not to exceed 4 Units	Attached Dwelling Units
Public/Private Tennis Courts and Swimming Pools	Institutional and Institutional Residential Uses
Public Buildings and Uses	Parks and Community Parks
Low- and Medium Intensity Commercial Retail or office uses of less than 2,500 square feet	
Parks and Community Parks	
Institutional Uses	
Churches, Synagogues, and Houses of Worship	
Major Conditional Uses	Major Conditional Uses
Attached Residential Dwellings, greater than 4 Units	Marinas
Institutional Residential Uses	Time-share Estates
Marinas	Stealth Wireless Facilities
Agricultural Uses	
Campgrounds	
Hotels	
Club Houses	
Stealth Wireless Telecommunication Facilities	

A comparatively analysis of uses in the SR zoning district and the UR zoning district indicates that the more commercial uses are permitted within the SR zoning district, in addition to uses which have a greater impact on adjacent properties. With the exception of marinas, the UR zoning district does not permit any type of commercial use or development.

	SUBURBAN RESIDENTIAL	URBAN RESIDENTIAL	SUBURBAN RESIDENTIAL	URBAN RESIDENTIAL
	Allocated Density		Maximum Net Density	
Residential	One/2 acres	6/acre	6/acre	12/acre 25/acre*
Institutional Residential	3/acre	10/acre	6/acre	20/acre
Hotel	5/acre	0	15/acre	0
Recreational Rental	5/acre	0	10/acre	0

*Affordable Housing Only

The overall density is greater in the UR zoning district versus SR zoning, but again the intensity of uses and impacts of uses within the SR zoning district is greater than in UR.

Compatibility with Adjacent Land Uses and Character and Effects on Natural Resources

Section 9.5-511 of the Land Development Regulations prohibits any amendments which would negatively impact community character. Objective 101.4 of the Comprehensive Plan calls for the City of Marathon to maintain community character and protect natural resources through a distribution of land uses consistent with the Future Land Use Map.

The proposed designation, particularly if the density bonus for affordable housing is used, would allow the property to be developed for high density residential purposes. The overall use of the land would remain residential, but the property would be allowed to sustain more units. The surrounding residential uses include mobile home parks, which are already fairly dense. For this reason, it does not appear that a change in zoning will have a negative impact on the adjacent land uses and community character.

A biological assessment of the site determined that the property is dominated by Brazilian Pepper and other invasive exotic species. Very few areas of native vegetation exist on this parcel. Therefore, any development on this property would not be negatively affecting any natural resources. Additionally, the area of the property that is proposed for the zone change is not adjacent to the ocean, which reduces the impact the development may have on any water sources.

SUMMARY

The applicant has requested a change in the zoning designation for property at US 1 and 71st Street Ocean. Currently the property is zoned Suburban Residential (SR), and the applicant is requesting a change to Urban Residential (UR). Upon receiving this designation, the property would most likely be developed to accommodate 90 affordable housing units. A minor conditional use would need to be obtained prior to development.

The applicant has suggested four reasons why the proposed map amendment should be granted, including:

1. changed projections – the current zoning was established by Monroe County,
2. changed assumptions – affordable housing issues have become more difficult to address and

it continues to be a problem that was not addressed by County methods,

3. data errors – the zoning was developed from a County perspective, the vegetation maps are out of date, and the surrounding uses do not merit a open land suburban character designation for this property, and
4. New issues – the need for affordable housing problem has increased over the years.

The applicant feels that this zone should be changed to support affordable housing opportunities of which the City is in great need of. The current zoning would support low density housing, which is traditionally larger, and more expensive, therefore exacerbating housing affordability within the City rather than alleviating it. By changing this zone, the City has the opportunity to take steps towards providing affordable housing to the residents of Marathon, many of whom are presently cost-burdened by the cost of housing. Furthermore, it does not appear that a change in the zone would negatively affect the surround land uses and community character, particularly since several adjacent areas are now high density.

Figure 1: Location of Proposed Carlisle Project

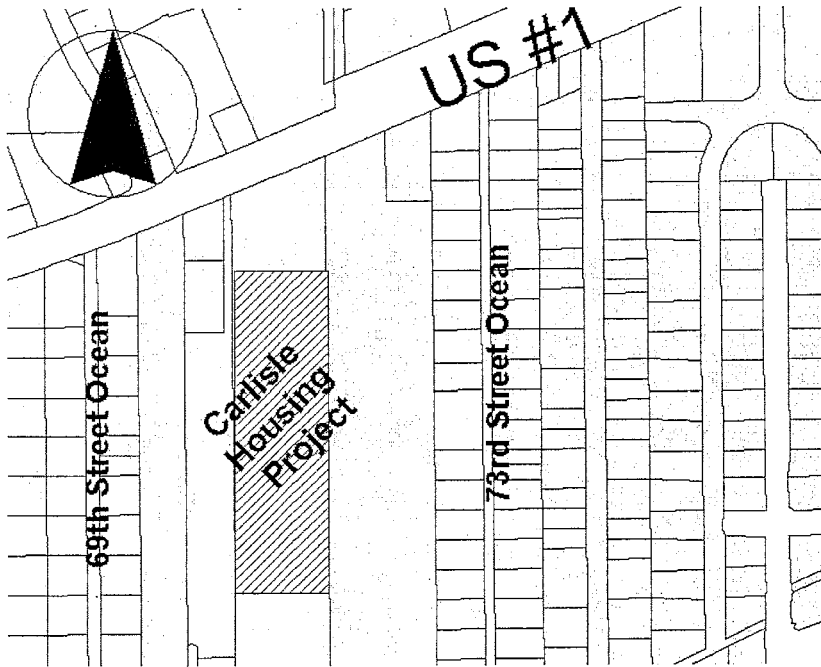
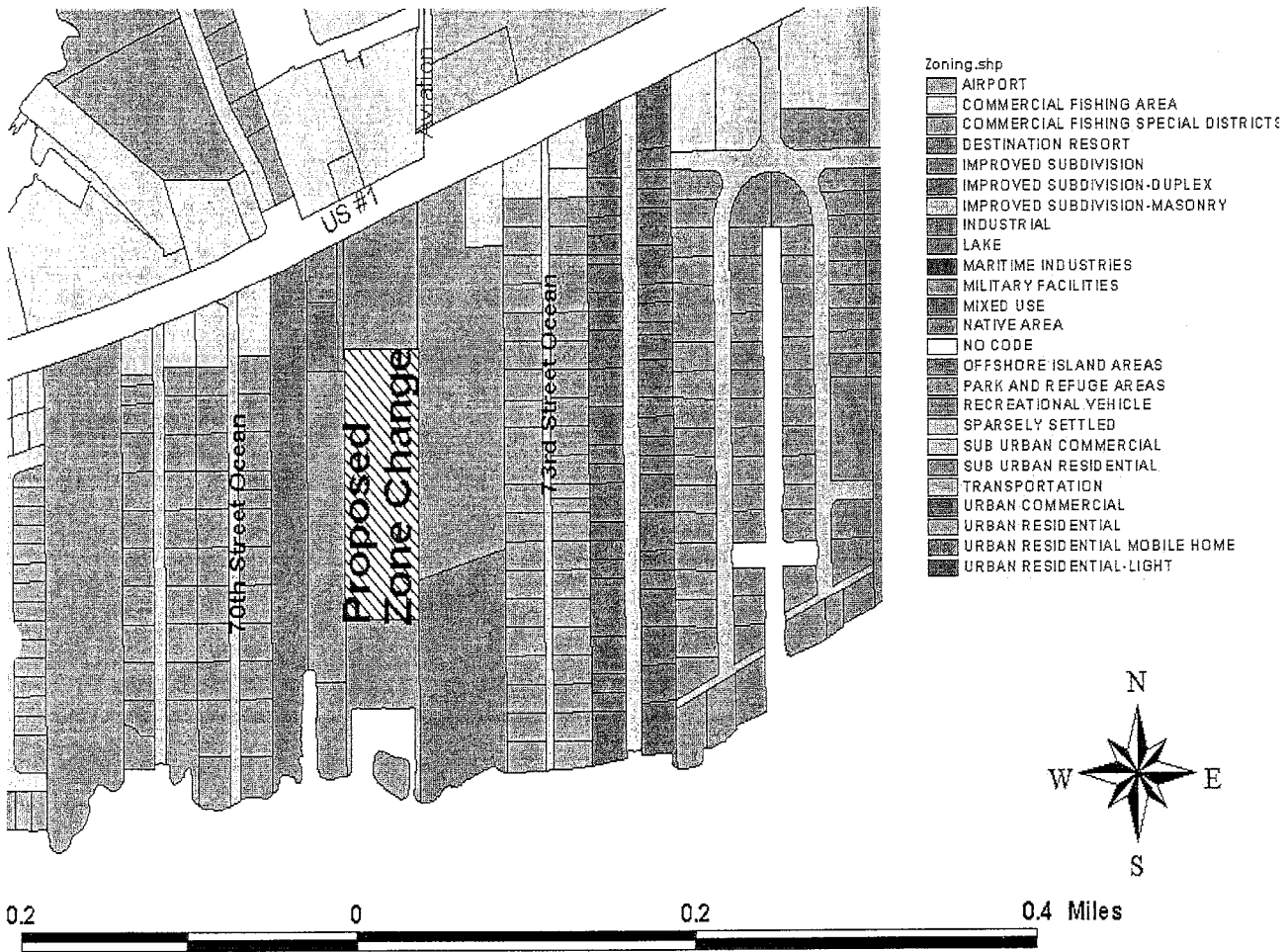


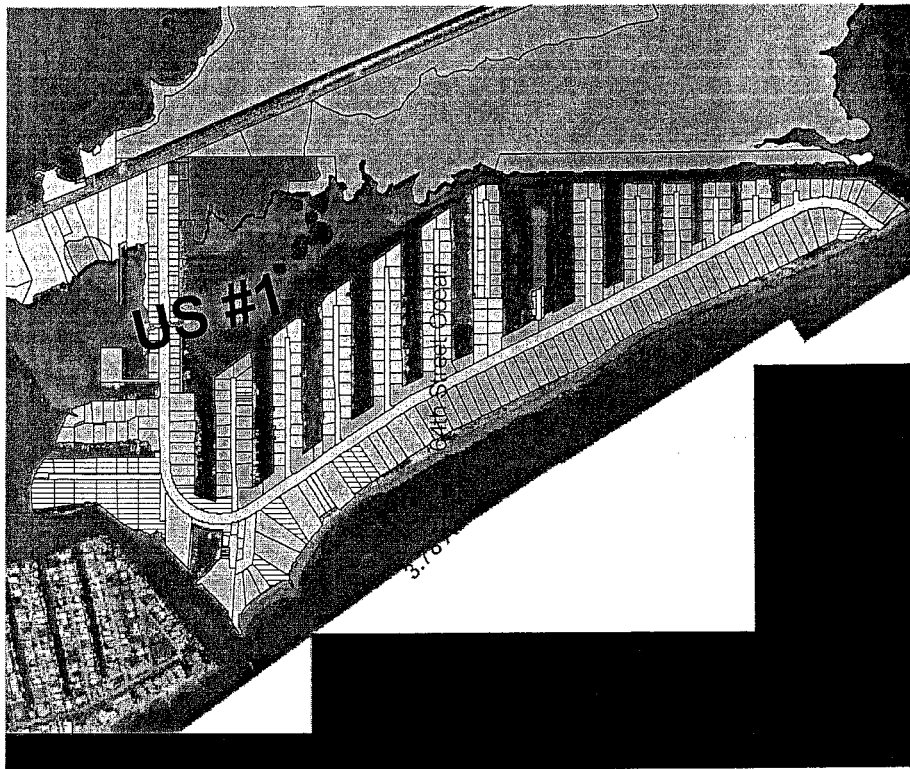
Figure 2: Surrounding Zoning


Farrugia Tract Zone Change Application


























Surrounding Zoning

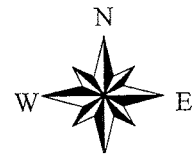


Vacant Urban Residential Parcels Map 1

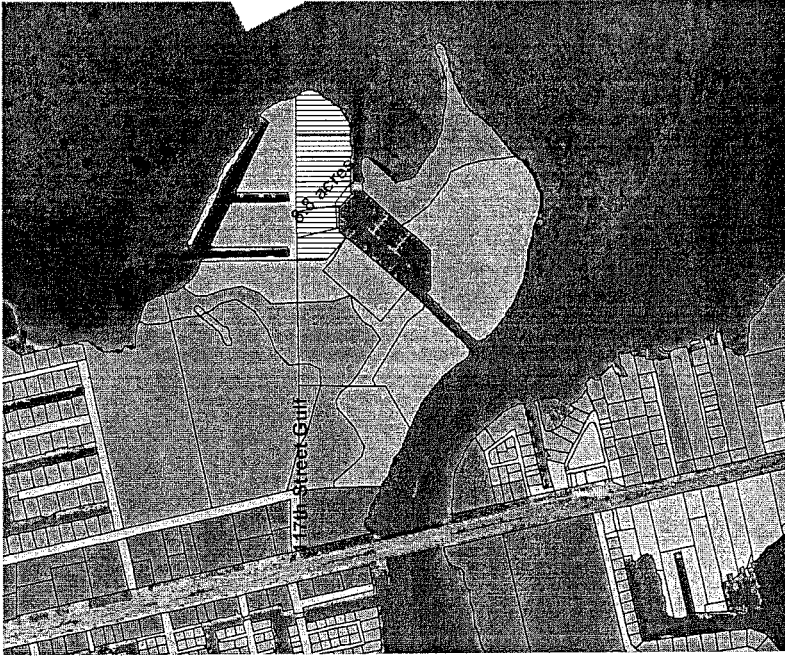


 Vacant UR Parcels

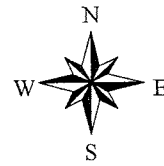
-  AIRPORT
-  COMMERCIAL FISHING AREA
-  COMMERCIAL FISHING SPECIAL DISTRICTS
-  DESTINATION RESORT
-  IMPROVED SUBDIVISION
-  IMPROVED SUBDIVISION-DUPLEX
-  IMPROVED SUBDIVISION-MASONRY
-  INDUSTRIAL
-  LAKE
-  MARITIME INDUSTRIES
-  MILITARY FACILITIES
-  MIXED USE
-  NATIVE AREA
-  NO CODE
-  OFFSHORE ISLAND AREAS
-  PARK AND REFUGE AREAS
-  RECREATIONAL VEHICLE
-  SPARSELY SETTLED
-  SUB URBAN COMMERCIAL
-  SUB URBAN RESIDENTIAL
-  TRANSPORTATION
-  URBAN COMMERCIAL
-  URBAN RESIDENTIAL
-  URBAN RESIDENTIAL MOBILE HOME
-  URBAN RESIDENTIAL-LIGHT



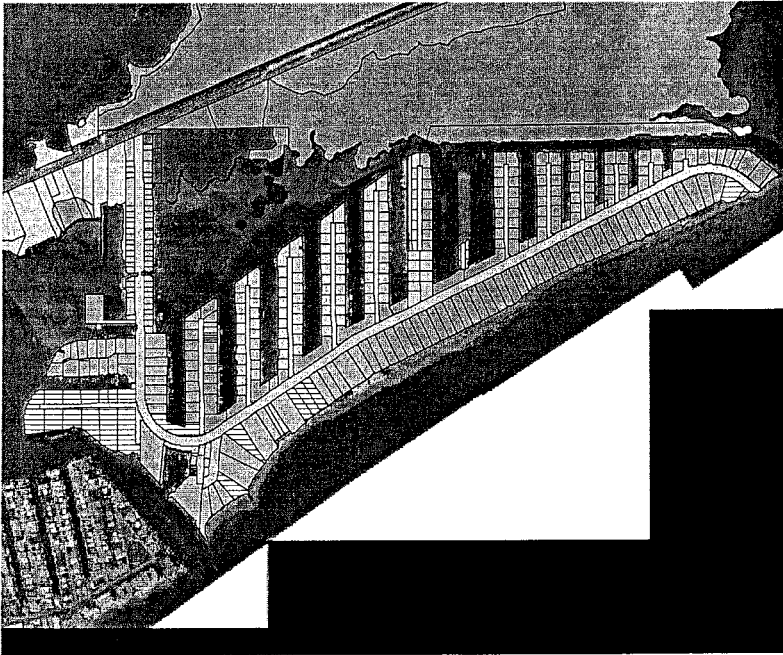
Vacant Urban Residential Parcels Map 2





























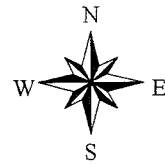
- Vacant UR Parcels
- AIRPORT
 - COMMERCIAL FISHING AREA
 - COMMERCIAL FISHING SPECIAL DISTRICTS
 - DESTINATION RESORT
 - IMPROVED SUBDIVISION
 - IMPROVED SUBDIVISION-DUPLEX
 - IMPROVED SUBDIVISION-MASONRY
 - INDUSTRIAL
 - LAKE
 - MARITIME INDUSTRIES
 - MILITARY FACILITIES
 - MIXED USE
 - NATIVE AREA
 - NO CODE
 - OFFSHORE ISLAND AREAS
 - PARK AND REFUGE AREAS
 - RECREATIONAL VEHICLE
 - SPARSELY SETTLED
 - SUB URBAN COMMERCIAL
 - SUB URBAN RESIDENTIAL
 - TRANSPORTATION
 - URBAN COMMERCIAL
 - URBAN RESIDENTIAL
 - URBAN RESIDENTIAL MOBILE HOME
 - URBAN RESIDENTIAL-LIGHT



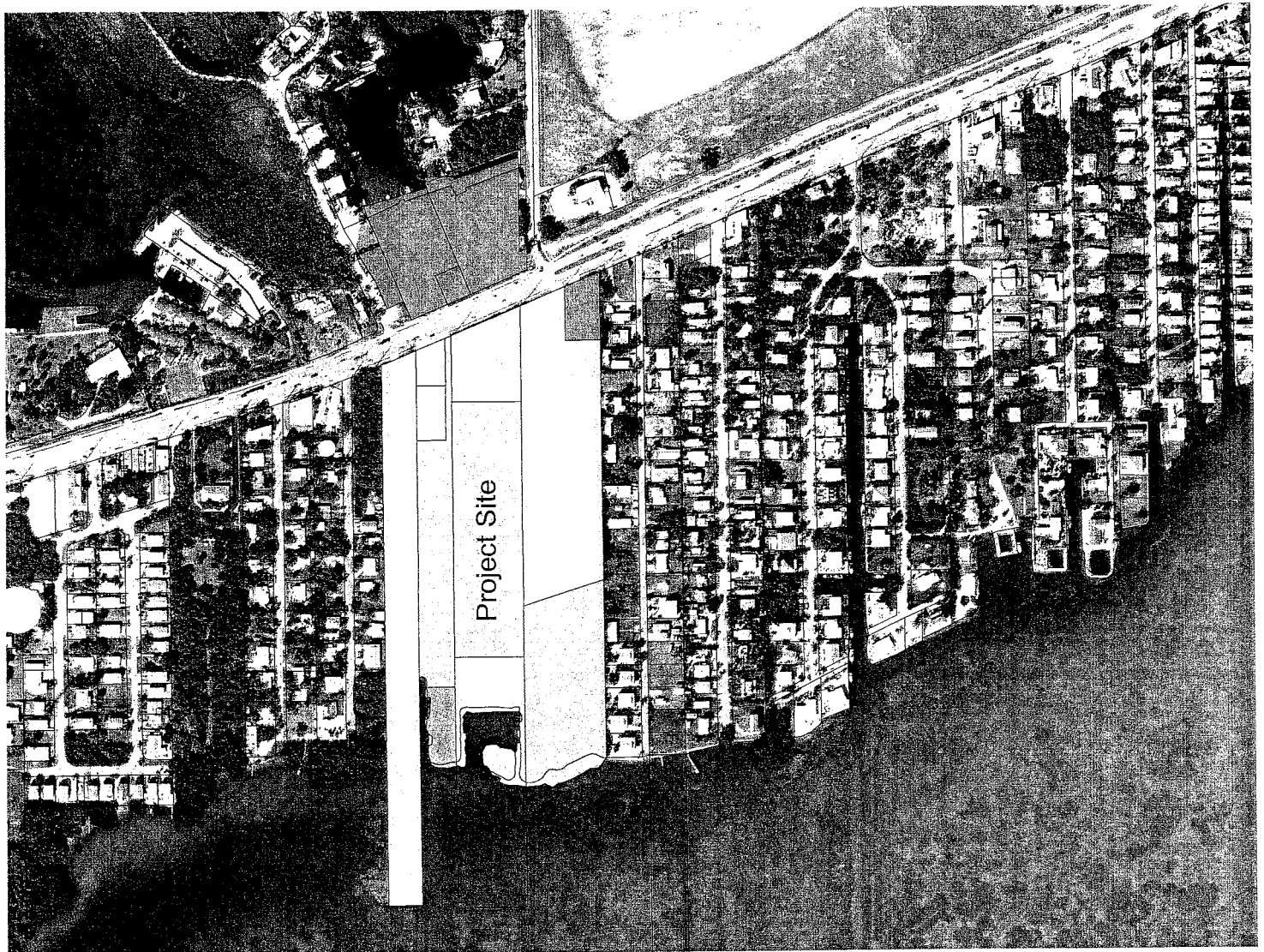
Vacant Urban Residential Parcels Map 3







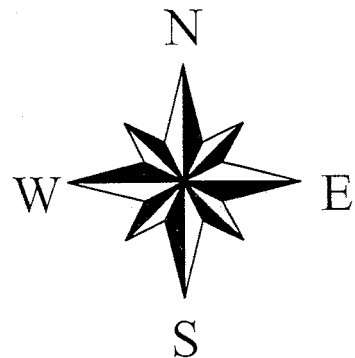
-  VacantUR Parcels
-  AIRPORT
-  COMMERCIAL FISHING AREA
-  COMMERCIAL FISHING SPECIAL DISTRICTS
-  DESTINATION RESORT
-  IMPROVED SUBDIVISION
-  IMPROVED SUBDIVISION-DUPLEX
-  IMPROVED SUBDIVISION-MASONRY
-  INDUSTRIAL
-  LAKE
-  MARITIME INDUSTRIES
-  MILITARY FACILITIES
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-  SPARSELY SETTLED
-  SUB URBAN COMMERCIAL
-  SUB URBAN RESIDENTIAL
-  TRANSPORTATION
-  URBAN COMMERCIAL
-  URBAN RESIDENTIAL
-  URBAN RESIDENTIAL MOBILE HOME
-  URBAN RESIDENTIAL-LIGHT



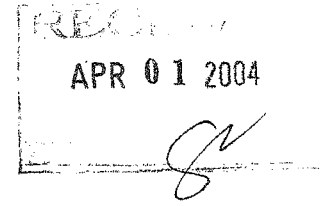
Small Scale FLUM Amendment Farrugia Tract



-  MIXED USE COMMERCIAL
-  RESIDENTIAL HIGH
-  RESIDENTIAL LOW
-  RESIDENTIAL MEDIUM



STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS



In re: CITY OF MARATHON SMALL SCALE
PLAN AMENDMENT AND ZONING MAP
AMENDMENT ADOPTED BY ORDINANCES
NO. 2004-07 and NO. 2004-02

FINAL ORDER

The Department of Community Affairs (the "Department") hereby issues its Final Order, pursuant to §§ 380.05(6), *Fla. Stat.*, and § 380.0552(9), *Fla. Stat.* (2003), approving a small scale comprehensive plan amendment and zoning map amendment adopted by a local government within the Florida Keys Area of Critical State Concern as set forth below.

FINDINGS OF FACT

1. The Florida Keys Area is a statutorily designated area of critical state concern, and the City of Marathon is a local government within the Florida Keys Area.
2. On March 26, 2004, the Department received for review City of Marathon Ordinance No. 2004-07 that was adopted by the Marathon City Council on March 23, 2004 ("Ord. 2004-07"). Ord. 2004-07 authorizes a small scale comprehensive plan amendment for the purposes of affordable housing as provided under section 163.3187(1)(c)1.e., *Fla. Stat.* Ord. 2004-07 amends the Future Land Use Map for a parcel of land described as part of Key Vaca, Part of Government Tract 1, (F/K/A Marathon Shores PG 2-118 and Tract 1 Edmonds Acreage Tracts PB 2-100, or 1325), Section 11, Township 66 South, Range 32 East, in the City of Marathon, FL from "Residential Low" to "Residential High."
3. On March 29, 2004, the Department received for review City of Marathon Ordinance No. 2004-02 that was adopted by the Marathon City Council on March 23, 2004. Ord. 2004-02 amends the Land Use District (Zoning) Map for the same above-described parcel of land from Suburban Residential to Urban Residential.

4. Ord. 2004-07 and Ord. 2004-02 are consistent with the City's 2010 Comprehensive Plan.

CONCLUSIONS OF LAW

5. The Department is required to review a small scale plan amendment which involves the construction of affordable housing units for consistency with the Principles for Guiding Development applicable to areas of critical state concern. 163.3187(1)(c) i.e., *Fla. Stat.*, (2003).

6. The Department is required to approve or reject land development regulations that are enacted, amended or rescinded by any local government in the Florida Keys Area of Critical State Concern. §§ 380.05(6), *Fla. Stat.*, and § 380.0552(9), *Fla. Stat.* (2003).

7. The City of Marathon is a local government within the Florida Keys Area of Critical State Concern. § 380.0552, *Fla. Stat.* (2003) and Rule 28-29.002 (superseding Chapter 27F-8), *Fla. Admin. Code*.

8. "Land development regulations" include local zoning, subdivision, building and other regulations controlling the development of land. § 380.031(8), *Fla. Stat.* (2003). The regulations adopted by Ord. 2004-02 are land development regulations.

9. All land development regulations enacted, amended or rescinded within an area of critical state concern must be consistent with the Principles for Guiding Development (the "Principles") as set forth in § 380.0552(7), *Fla. Stat.* See *Rathkamp v. Department of Community Affairs*, 21 F.A.L.R. 1902 (Dec. 4, 1998), *aff'd*, 740 So. 2d 1209 (Fla. 3d DCA 1999). The Principles are construed as a whole and no specific provision is construed or applied in isolation from the other provisions.

10. Ord. 2004-07 and Ord. 2004-02 promote and further the following Principles:

(a) To strengthen local government capabilities for managing land use and development so that local government is able to achieve these objectives without the continuation of the area of critical state concern designation.

(c) To protect upland resources, tropical biological communities, freshwater wetlands, native tropical vegetation, (for example,

hardwood hammocks and pinelands), dune ridges and beaches, wildlife, and their habitat.

(h) To protect the value, efficiency, cost-effectiveness, and amortized life of existing and proposed major public investments, including:

1. The Florida Keys Aqueduct and water supply facilities;
2. Sewage collection and disposal facilities;
3. Solid waste collection and disposal facilities;
-
5. Transportation facilities;...
-
8. City electric service and the Florida Keys Electric Co-op; and
9. Other utilities, as appropriate.


(j) To make available adequate affordable housing for all sectors of the population of the Florida Keys.

11. Ord. 2004-07 and Ord. 2004-02 are not inconsistent with the remaining Principles. Ord. 2004-07 and Ord. 2004-02 are consistent with the Principles for Guiding Development as a whole.

WHEREFORE, IT IS ORDERED that Ord. 2004-07 and Ord. 2004-02 are found to be consistent with the Principles for Guiding Development of the Florida Keys Area of Critical State Concern, and are hereby APPROVED.

This Order becomes effective 21 days after publication in the Florida Administrative Weekly unless a petition is filed as described below.

DONE AND ORDERED in Tallahassee, Florida.


VALERIE J. HUBBARD, DIRECTOR
Division of Community Planning
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

NOTICE OF ADMINISTRATIVE RIGHTS

ANY PERSON WHOSE SUBSTANTIAL INTERESTS ARE AFFECTED BY THIS ORDER HAS THE OPPORTUNITY FOR AN ADMINISTRATIVE PROCEEDING PURSUANT TO SECTION 120.569, FLORIDA STATUTES, REGARDING THE AGENCY'S ACTION. DEPENDING UPON WHETHER YOU ALLEGE ANY DISPUTED ISSUE OF MATERIAL FACT IN YOUR PETITION REQUESTING AN ADMINISTRATIVE PROCEEDING, YOU ARE ENTITLED TO EITHER AN INFORMAL PROCEEDING OR A FORMAL HEARING.

IF YOUR PETITION FOR HEARING DOES NOT ALLEGE ANY DISPUTED ISSUE OF MATERIAL FACT CONTAINED IN THE DEPARTMENT'S ACTION, THEN THE ADMINISTRATIVE PROCEEDING WILL BE AN INFORMAL ONE, CONDUCTED PURSUANT TO SECTIONS 120.569 AND 120.57(2) FLORIDA STATUTES, AND CHAPTER 28-106, PARTS I AND III, FLORIDA ADMINISTRATIVE CODE. IN AN INFORMAL ADMINISTRATIVE PROCEEDING, YOU MAY BE REPRESENTED BY COUNSEL OR BY A QUALIFIED REPRESENTATIVE, AND YOU MAY PRESENT WRITTEN OR ORAL EVIDENCE IN OPPOSITION TO THE DEPARTMENT'S ACTION OR REFUSAL TO ACT; OR YOU MAY EXERCISE THE OPTION TO PRESENT A WRITTEN STATEMENT CHALLENGING THE GROUNDS UPON WHICH THE DEPARTMENT HAS CHOSEN TO JUSTIFY ITS ACTION OR INACTION.

IF YOU DISPUTE ANY ISSUE OF MATERIAL FACT STATED IN THE AGENCY ACTION, THEN YOU MAY FILE A PETITION REQUESTING A FORMAL ADMINISTRATIVE HEARING BEFORE AN ADMINISTRATIVE LAW JUDGE OF THE DIVISION OF ADMINISTRATIVE HEARINGS, PURSUANT TO SECTIONS 120.569 AND 120.57(1), FLORIDA STATUTES, AND CHAPTER 28-106, PARTS I AND II, FLORIDA ADMINISTRATIVE CODE. AT A FORMAL ADMINISTRATIVE HEARING, YOU MAY BE REPRESENTED BY COUNSEL OR OTHER QUALIFIED REPRESENTATIVE, AND YOU WILL HAVE THE OPPORTUNITY TO PRESENT EVIDENCE AND ARGUMENT ON ALL THE ISSUES INVOLVED, TO CONDUCT CROSS-EXAMINATION AND SUBMIT REBUTTAL EVIDENCE, TO SUBMIT PROPOSED FINDINGS OF FACT AND ORDERS, AND TO FILE EXCEPTIONS TO ANY RECOMMENDED ORDER.

IF YOU DESIRE EITHER AN INFORMAL PROCEEDING OR A FORMAL HEARING, YOU MUST FILE WITH THE AGENCY CLERK OF THE DEPARTMENT OF COMMUNITY AFFAIRS A WRITTEN PLEADING ENTITLED, "PETITION FOR ADMINISTRATIVE PROCEEDINGS" WITHIN 21 CALENDAR DAYS OF PUBLICATION OF THIS NOTICE. A PETITION IS FILED WHEN IT IS RECEIVED BY THE AGENCY CLERK, IN THE DEPARTMENT'S OFFICE OF GENERAL COUNSEL, 2555 SHUMARD OAK BOULEVARD, TALLAHASSEE, FLORIDA 32399-2100.

THE PETITION MUST MEET THE FILING REQUIREMENTS IN RULE 28-106.104(2), FLORIDA ADMINISTRATIVE CODE. IF AN INFORMAL PROCEEDING IS REQUESTED, THEN THE PETITION SHALL BE SUBMITTED IN ACCORDANCE WITH RULE 28-106.301, FLORIDA ADMINISTRATIVE CODE. IF A FORMAL HEARING IS REQUESTED, THEN THE PETITION SHALL BE SUBMITTED IN ACCORDANCE WITH RULE 28-106.201(2), FLORIDA ADMINISTRATIVE CODE.

A PERSON WHO HAS FILED A PETITION MAY REQUEST MEDIATION. A REQUEST FOR MEDIATION MUST INCLUDE THE INFORMATION REQUIRED BY RULE 28-106.402, FLORIDA ADMINISTRATIVE CODE. CHOOSING MEDIATION DOES NOT AFFECT THE RIGHT TO AN ADMINISTRATIVE HEARING.

YOU WAIVE THE RIGHT TO AN INFORMAL ADMINISTRATIVE PROCEEDING OR A FORMAL HEARING IF YOU DO NOT FILE A PETITION WITH THE AGENCY CLERK WITHIN 21 DAYS OF PUBLICATION OF THIS FINAL ORDER.

CERTIFICATE OF FILING AND SERVICE

I HEREBY CERTIFY that the original of the foregoing Final Order has been filed with the undersigned designated Agency Clerk, and that true and correct copies have been furnished to the persons listed below by the method indicated this 30th day of March, 2004.


for Paula Ford, Agency Clerk

By U.S. Mail:

Honorable Jeff Pinkus, Mayor
City of Marathon
10054-55 Overseas Highway
Marathon, Florida 33050

Katherine V. Selchan, City Clerk
City of Marathon
210 University Drive
Coral Springs, Florida 33071

Scott Janke
City Manager
City of Marathon
10054-55 Overseas Highway
Marathon, Florida 33050

John R. Herin, Jr.
Weiss, Serota, Helfman, Pastoriza and Guedes, P.A.
City Attorneys
City of Marathon
2665 South Bayshore Drive, Suite 420
Miami, Florida 33133

By Hand Delivery or Interagency Mail:

Jim Quinn, State Planning Administrator
Rebecca Jetton, ACSC Administrator
Timothy E. Dennis, Assistant General Counsel