



## CITY COUNCIL AGENDA STATEMENT

**Meeting Date:** August 8, 2023

**From:** Brian Shea, Planning Director

**Through:** George Garrett, City Manager

**Agenda Item:** Consideration Of A Request By H & R Marathon LLC For A Conditional Use Permit, Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (“The Code”) Entitled “Conditional Use Permits”, Authorizing The Development Of a Ten (10) Resident Group Home Including Four (4) Affordable Housing Units, Dining Hall, Fitness Center, Storage and Commercial Kitchen; Which Is Legally Described As Section 5 Township 66 Range 33 Fat Deer Key Part Lot 3 And Part Government Lot 3 (AKA Part Of State Road No 5 (US 1)) And Section 5 Township 66 Range 33 Fat Deer Key Part Lot 3 (Part Old State Road), Monroe County, Florida, Having Real Estate Numbers 00100540-000000 And 00100640-000000. Nearest Mile Marker 53.

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### RECOMMENDATION:

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

**APPLICANT/ OWNER:** H & R Marathon LLC

**AGENT:** Catherine Felton, Little Red Rooster

**LOCATION:** The project site is located at 14 125<sup>th</sup> Street Gulf and vacant land at nearest mile marker 53. See Figure 1.

**REQUEST:** A Conditional Use Permit approving the development of a ten (10) resident Group Home with the redevelopment of the existing building to four (4) affordable employee housing units and fitness center, a tiki with dining hall, commercial kitchen, and storage.

**LOT SIZE:** Total acreage 1.71 acres or 74,890 square feet and

### SURROUNDING ZONING AND USES:

	<u><b>Zoning</b></u>	<u><b>Use</b></u>
<b>North</b>	N/A	Open Water
<b>West</b>	Mixed Use (MU) and Residential High (RH)	Island Gift Shop and Bougainvillea Condominium
<b>East</b>	Residential Medium (RM)	Residential Housing

South	Mixed Use (MU)	Boat House
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**EXISTING CONDITIONS:**

The project site consists of an existing commercial two-story building and vacant land. The existing FLUM is Mixed Use Commercial (MU-C) and Residential Medium (RM), and the zoning is Mixed Use (MU) and Residential Medium (RM). See Figures 2 and 3.

**Figure 1  
Project Site**



**FUTURE LAND USE MAP DESIGNATION:**  
Mixed Use Commercial (MU-C) and Residential Medium (RM). See Figure 2.

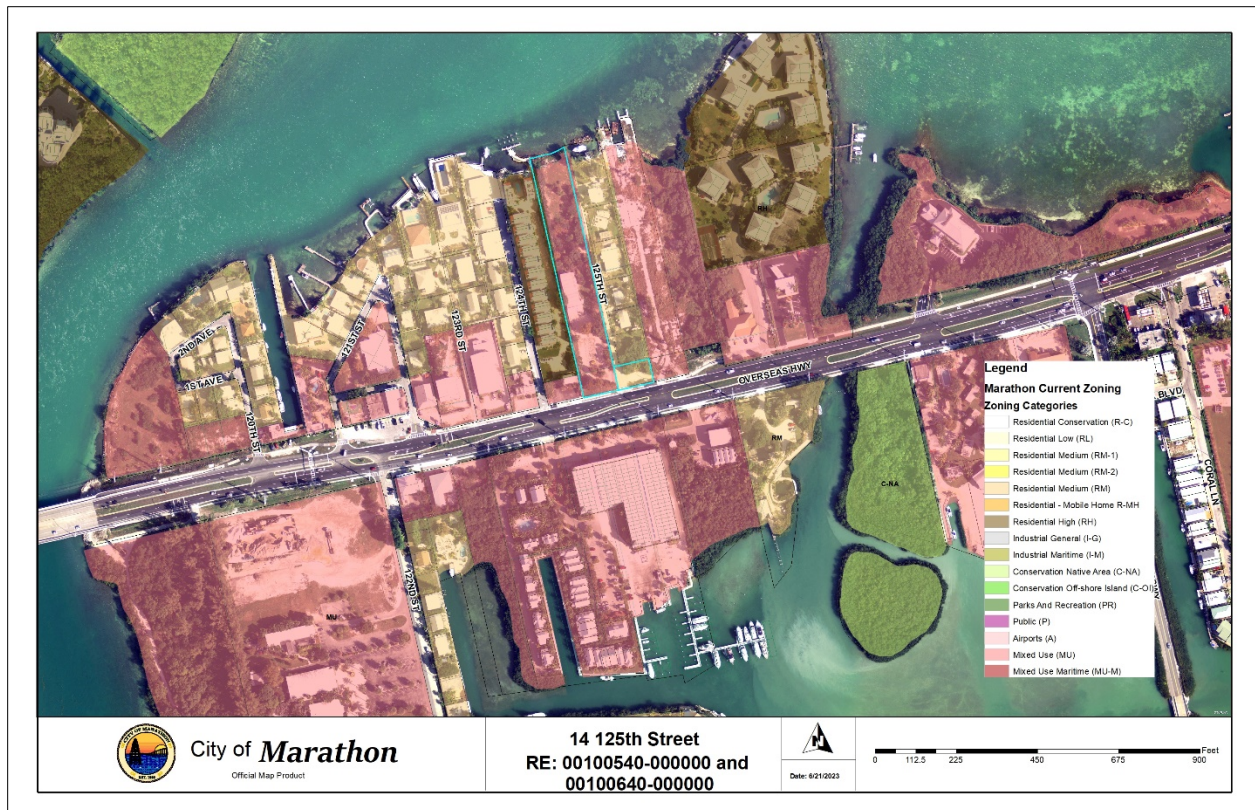
**Figure 2**  
**Future Land Use Map**



## ZONING MAP DESIGNATION:

Mixed Use (MU) and Residential Medium (RM). See Figure 3.

**Figure 3**  
**Zoning Map**



## PROPOSED REDEVELOPMENT:

The Applicant requests a change of use to develop a ten (10) resident group home/boarding house for injured military veterans with four (4) affordable employee housing units. The existing commercial building will be remodeled to include affordable units, physical therapy rooms, kitchen, and a lobby. A tiki to be constructed with a commercial kitchen, dining hall and storage for the residents.

## BACKGROUND:

The proposed project seeks to redevelop property that was previously used as a school and vacant land. The total property size is 74,890 square feet.

## EVALUATION FOR COMPLIANCE WITH THE LAND DEVELOPMENT REGULATIONS:

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

## **CRITERIA**

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

The proposed development project is located within the Mixed Use (MU) Zoning District. Per Chapter 103, Article 2, Section 103.09 of the Land Development Regulations, the district is designed to “accommodate a wide variety of commercial and retail activities that will result in the most efficient and attractive use of the City’s historic business district and the 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 is for a 10 resident group home with four (4) affordable units, a commercial kitchen, fitness center, storage and dining hall, an allowed use pursuant to Table 103.15.1 of the LDRs, supported by elements of the Comprehensive Plan. Relevant Policies concerning this project follow:

### **City of Marathon Comprehensive Plan**

- a. “Policy 1-1.1.2 Adopt Compatibility for Residential and Non-Residential Review Criteria,”
- b. “Policy 1-1.1.3 Protect Residential Neighborhood Character,” and
- c. “Policy 1-1.1.4 Transition between Land Uses

The project is surrounded by commercial development to the south and east with the exception of the property to the east and west which is residential.

#### **d. Policy 1-3.1.4 Future Land Use Categories**

The Future Land Use Map (FLUM) designates the parcels as Mixed-Use Commercial. Within this designation various commercial uses are permitting in addition to commercial, transient, and permanent residential uses as well as marinas and storage facilities. The project is consistent with the intent of this district and neither a zoning nor FLUM change is necessary for this project.

#### **e. Policy 1-3.2.5 Maximum Height**

The maximum height of any new structure associated with the redevelopment of the property shall not exceed 42 feet, except as provided by the City Code, as amended. The conceptual elevation plans submitted demonstrate compliance with this requirement.

#### **f. Policy 1-3.2.7 Restrict Density and Intensity of Development**

The proposed density is consistent with the thresholds outlined in Table 1-1 of the Comprehensive Plan. Based on the upland area of 1.71 acres, the proposed ten resident group home and tiki

structure utilize 23.3% of the density allowed for this site. The density for each of the proposed uses has been calculated independently.

g. Policy 1-3.3.1 b., e., and f. General Redevelopment Criteria

The proposed new business promotes the revitalization of the city's commercial area, with existing commercial to the south and west. The US 1 corridor will be enhanced with the proposed landscaping.

h. Policy 1-3.4.2 Protect Established Densities & Policy 1-3.4.3 Replacement of Existing Densities and Intensities

The redevelopment plan would need two (2) market rate and four (4) affordable building rights which will need to be obtained. The additional commercial floor area will be requested from the City's available pool.

### City of Marathon Land Development Regulations

- Section 103.09 – Mixed Use (MU)

The MU District is intended to accommodate a wide range of commercial and residential uses and activities including the group home.

- Table 103.15.1 Uses By Zoning District – Mixed Use (MU)

This redevelopment is consistent with Table 103.15.1, uses by Zoning District, via a Conditional Use Permit Application, as contained herein.

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 use. The FAR for mixed-use developments may be increased to .75 if mitigated by the development of affordable/workforce housing is provided. As such, the following table reflects the proposed project density and intensity (shown as floor area (FA)) against the maximum intensity and floor area allowed under the constraints imposed on the 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).

<b>H &amp; R Marathon LLC</b>	
<b>Total 74,890 sq ft</b>	
<b>Market Rate (2)</b>	14,520
<b>Affordable (4)</b>	11,616
<b>FAR (See Table 103.15.3)</b>	0.75
<b>Maximum allowed</b>	36,565 sq ft
<b>Total Proposed</b>	21,848 sq ft

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

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

- Section 107.47 Parking

Parking for the site and the project is met with the proposed required parking spaces. The development provides twenty-eight exterior standard parking spaces, and four exterior handicap spaces for a total of thirty-two spaces.

- Section 107.40 Maximum Height

The project sites are below the forty-two (42) foot height limitation of the City's LDRs.

- Sections 107.63 – 107.72 Landscaping

The landscape plan includes a list of native trees to provide shade and temperature reduction along the internal roadway. The parcel to the west is zoned Residential High with a 15' wide buffer required, the parcel to the east is zoned Residential Medium and a 20' wide buffer is required. A reduction in buffer area can be made through TRC review. Both sides will have screening of a 6' opaque fence. Along US 1 corridor to the south the landscape planting will consist of a variety of native plant material varying in size and height as well as canopy trees. A mix of understory trees and shrubs will be planted in a variety of heights of maturity.

- Sections 107.73 – 107.81 Open Space

The project site meets the minimum open space requirements of twenty (20) percent and therefore meets the minimum requirements of the LDRs.

- Sections 107.82 – 107.85 Fences and Screening

The project meets City screening and landscaping requirements.

- Sections 107.87 – 107.97 Stormwater Management

The existing Stormwater Management Plan associated with this site demonstrates compliance with the requirements of the LDRs.

- Sections 107.98 – 107.102.5 Floodplain Management

The site building will be located above FEMA minimum flood elevations. Therefore, the project is compliant with this requirement of the LDRs.

The project as proposed meets the basic definition of development in the MU zoning district. Therefore, with conditions, the request is **in compliance** with the requirements of these sections.

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

The proposed project site is surrounded by other compatible commercial uses to the west and south as well as residential homes to the east and west.

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

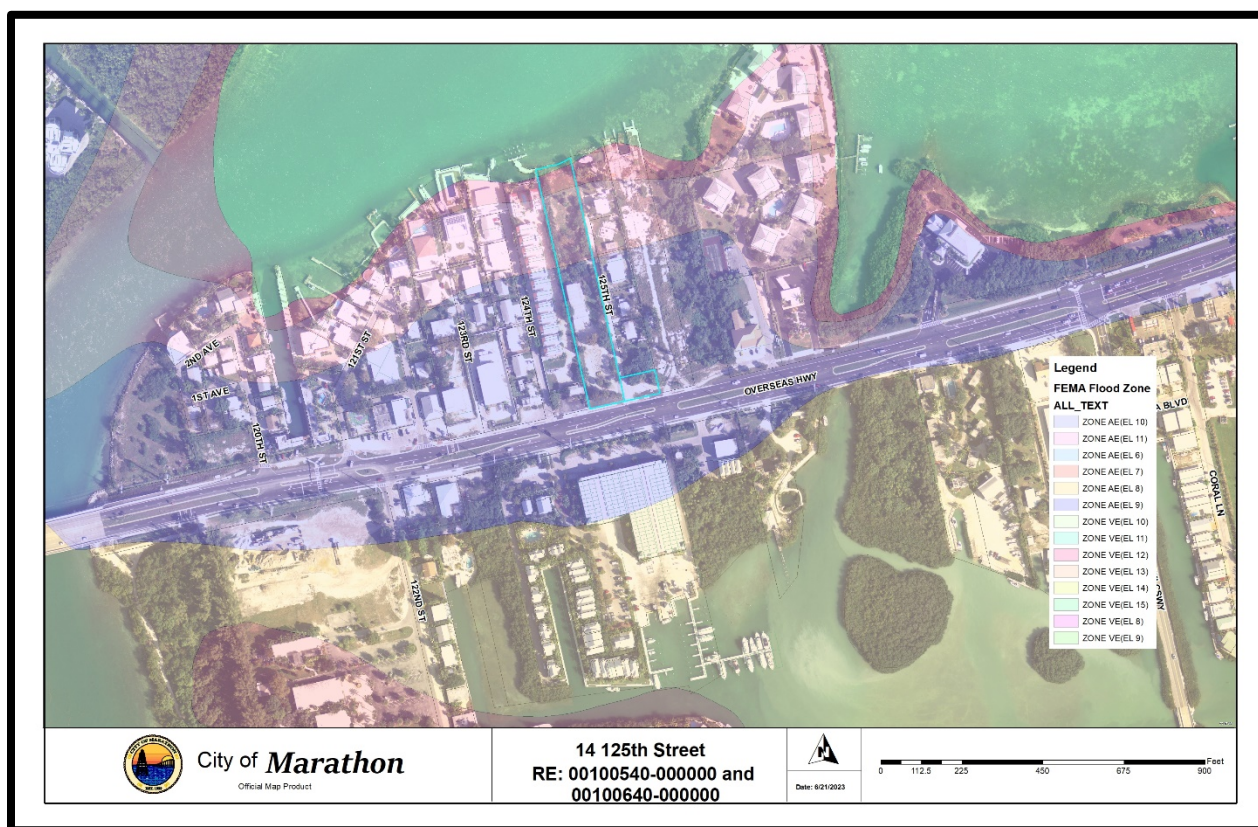
C. The proposed use shall not adversely affect the health, safety, and welfare of the public;

The proposed conditional use will enhance the community by providing affordable employee housing as well as new resident group home. The project will not cause any negative impacts to the City's health, safety, and welfare.

The existing structures will be remodeled with additional units to be built above FEMA's minimum flood elevations (AE9 and AE11) as shown in Figure 4 and is therefore compliant.

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

**Figure 4**  
**Flood Zones**



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:

There will be no negative impacts on habitat, environment, or water quality parameters. The proposed stormwater management system shall retain water generated from rain events on site thereby improving the quality of the near shore waters by treating and maintaining the stormwater

on site. The shoreline is developed. A map of the area indicates that surrounding properties lie within the FEMA-FWS Species Focus Area for the Eastern Indigo Snake. However, this has absolutely no impact on the project before the Planning Commission and City Council.

**Figure 5**  
**FEMA – FWS Species Focus Area Maps**



All vegetation on site is a mix of non-invasive exotic plantings. Several canopy and understory trees will be planted per Conceptual Landscape Plan that was submitted. Buffers will be installed as well as streetscape treatment along US 1 as a mixture of shrubs and canopy trees. Native vegetation must be mitigated per Section 106.10.

Project design requires containing all storm water on the property as required by Code.

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

- The project exceeds 1 acre of development, and as such an FDEP general permit for NPDES will be required.
- An FDOT access permit and drainage permit/exemption is required for this project.

- The existing topographic information is insufficient to determine impacts to adjacent properties. Additional information will be required, along the property lines and off-site as part of permits.
- The drainage calculations shown are preliminary but are not adequate for the issuance of a permit. The EOR is encouraged to contact the city prior to submittal of construction plans.
- Any native vegetation removed must be mitigated per Section 106.10.

**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 traffic analysis for the proposed development. Parking will be provided for staff and residents.

<b>Table 2</b> <b>Bravo Zulu Retreat</b> <b>Trip Generation Analysis</b> <b>US 1 - Marathon, Florida</b>								
Land Use	Size	Daily Trips	AM Peak Hour Trips			PM Peak Hour Trips		
			In	Out	Total	In	Out	Total
<b>Existing</b>								
Small Office Building	6,128 SF	88	8	2	10	4	9	13
<b>Total</b>		<b>88</b>	<b>8</b>	<b>2</b>	<b>10</b>	<b>4</b>	<b>9</b>	<b>13</b>
<b>Proposed</b>								
Congregate Care Facility	10 DU	22	1	0	1	1	1	2
Multifamily Housing (Low-Rise)	4 DU	24	0	2	2	1	1	2
<b>Total</b>		<b>46</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>2</b>	<b>2</b>	<b>4</b>
<b>Difference (Proposed - Existing)</b>		<b>(42)</b>	<b>(7)</b>	<b>0</b>	<b>(7)</b>	<b>(2)</b>	<b>(7)</b>	<b>(9)</b>

*Compiled by: KBP Consulting, Inc. (May 2023).*

The traffic will decrease from the previous use with the new redevelopment of the property. The project is not expected to adversely impact the operational characteristics of US1, nor will it inhibit the safe flow of traffic traveling through Marathon.

Provisions have been made as part of the redevelopment to address fire access. The proposed entrance from US1 to the site has been designed to accommodate fire and emergency vehicular access.

Bicycle racks have been provided on site. With the change of use for this project an FDOT access permit will be required.

Section 107.43 requires site triangles where the access drive intersects with the street.

Therefore, with the conditions above, 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 107.47 (Mixed-Use Development Parking Requirements). The project provides adequate parking spaces as required.

Use	Code Citation	Requirement	Spaces Required
Mixed Use Development  (Lobby, kitchen, and physical therapy rooms)	107.47	1 per employee plus 2 visitors	6
Mixed Use Development (housing)	107.47	1 space per one (1) bedroom apartment	14
<b>Total Required</b>			<b>20</b>
<b>Total Provided</b>			<b>32</b>

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

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

The proposed use has no known impact on the health, safety, and welfare of the public. No detrimental noise or glare is expected to be generated by the proposed use. Appropriate screening and buffering measures will be required per code and site plan.

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 be fully enclosed and screened. The site plan indicates that all dumpsters are (hidden) screened.

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

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

Chapter 107, Article 13, establishes the City's Concurrency Management and certification requirements. This Conditional Use constitutes the City's Concurrency Level of Service Certificate, as follows. The project will utilize existing space and will have no additional burden on City utilities or public services.

- Wastewater: The applicant will provide wastewater and sewage collection and disposal through cooperation with the Utilities Department.
- 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: A traffic study was completed to analyze the impact on transportation facilities.
- Educational Facilities: This redevelopment will have a de minimis impact on educational facilities since existing uses are being replaced in kind.

Therefore, 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.
- Applicants must obtain all outside agency approvals.
- City approval of the connection to the City Wastewater Utility will be required. *However, the Utilities Department has stated that the existing vacuum main that services that property has no more capacity and is maxed out. They are therefore unwilling to add any more load on this line until the Fairfield Hotel lift station is completed and on-line. Based on existing contracts this should occur within one year. Until this work is complete no permit can be issued.*
- The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.

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

A landscape plan has been submitted for this application. The plan addresses the required buffers, parking lot and US 1 corridor for plantings.

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 parcel is developed; therefore, a twenty percent open space requirement applies and the site complies with this minimum requirement.

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

**9. General compatibility with surrounding properties; and**

The proposed development is a Mixed-Use commercial development. The scale and layout of the proposed building are consistent with the City Code.

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.**

A unity of title for the parcels will be required as well as the vacant land parcel be rezoned to Mixed Use (MU).

Approximately 36 hours in advance of tropical storm winds, a mandatory evacuation of mobile home residents, special needs residents, and hospital and nursing home patients from the Keys shall be initiated.

Section 104.48 Residential Dwelling Units contains special requirements.

The following criteria are applicable to this proposed development:

- Two (2) side yards are required for stacked duplexes.
- Townhouses are limited to ten (10) dwelling units per row, except for affordable housing.

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

Additionally, the project must meet all criteria of Section 104.03 pertaining to affordable housing.

- Dwelling units shall contain less than or equal to 1,800 square feet of habitable space.
- Occupancy of affordable housing units is limited to those meeting the following income requirements:
  - A. Very-low-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 50 percent of the median adjusted gross annual income for households within the county;
  - B. Low-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 80 percent of the median adjusted gross annual income for households within the county;
  - C. Median-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 100 percent of the median adjusted gross annual income for households within the county;
  - D. Moderate-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 120 percent of the median adjusted gross annual income for households within the county;
  - E. Middle-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 160 percent of the median adjusted gross annual income within the county;
  - F. For the purposes of this section, "adjusted gross income" means all wages, income from assets, regular cash or non-cash contributions or gifts from persons outside the household (that will be used to offset the purchase price of the dwelling unit), and such other resources and benefits as may be determined to be income by the United States Department of Housing and Urban Development, adjusted for family size, less deductions allowable under Section 62 of the Internal Revenue Code. Income from assets is calculated at either the actual income from all assets or two (2%) percent of the value of all assets, whichever is greater. If total assets are less than \$5,000.00, no income is considered. Asset inclusions: Cash accounts (checking, savings, IRA, Money Market...), investments, retirement accounts, boats, RV's. Income exclusions: Personal property, automobiles;
  - G. The maximum sales price shall not exceed 300 percent of that amount which represents 160 percent of the median adjusted gross annual income for households within the county;

- H. The monthly rent shall not exceed 30 percent of that amount which represents the income bracket of the household, i.e., very low, low, median, moderate or middle, divided by 12. In no case shall the monthly rent exceed 160 percent of the median adjusted gross annual income for households within the county, divided by 12; and
- I. If the dwelling units utilize affordable housing BPAS allocations, the requirements of Subsection 107.06(c) shall also apply.
- J. Annual income qualification, lease, or employment verification, as applicable, by the City, or its designee, shall be limited to rental and employee housing dwelling units. Income verification for owner occupied dwellings shall be performed and approved by the City or its designee prior to the sales closing and occupancy of the dwelling unit.

Section 104.20 has specific conditions for group homes. A community residential group home may be allowed pursuant to Table 103.15.1, subject to the following standards:

- A. The home shall not be located within a radius of 1,000 feet of another existing small community residential group home unless otherwise approved as part of a conditional use permit.
- B. Such a home shall only be occupied by persons meeting the definition for a resident in Fla. Stat. 419.001 and are clients of the governmental agencies enumerated in Fla. Stat. 419.001 and not by persons found by a court to have committed a delinquent act.
- C. The establishment must conform to setback and height regulations for the zoning district.
- D. The home shall be located to assure the safe care and supervision of all clients.
- E. Pursuant to Fla. Stat. 419.001, homes with six (6) or fewer residents shall be deemed a single-family dwelling unit for the purposes of zoning and shall be allowed as a permitted use within all residential zoning districts. New residential dwelling units shall be subject to the requirements established in Article 1 "Building Permit Allocation System", of Chapter 107.
- F. Homes with seven (7) to 14 residents shall require conditional use approval.

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

## **CONCLUSION:**

The Conditional Use Approval process 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 is consistent with the existing land use patterns and is expected not to produce any nuisances, traffic congestion, or threat to public health, safety, or welfare. As such

the development, including the overall upgrading and improvement of the site, furthers the policies for development in the City and is consistent with the Comprehensive Plan and Land Development Regulations. The project is compatible with surrounding uses, and is not expected to create a nuisance, traffic congestion or threat to public, health, safety, or welfare.

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

## RECOMMENDATION:

Planning staff recommends conditional approval allowing the development of a ten (10) resident group home for injured military veterans with four (4) affordable employee housing units provided that **all conditions are met prior to permit issuance**. The proposed conditions of approval are listed below. Planning Commission recommends approval (4-0).

### Conditions of Approval

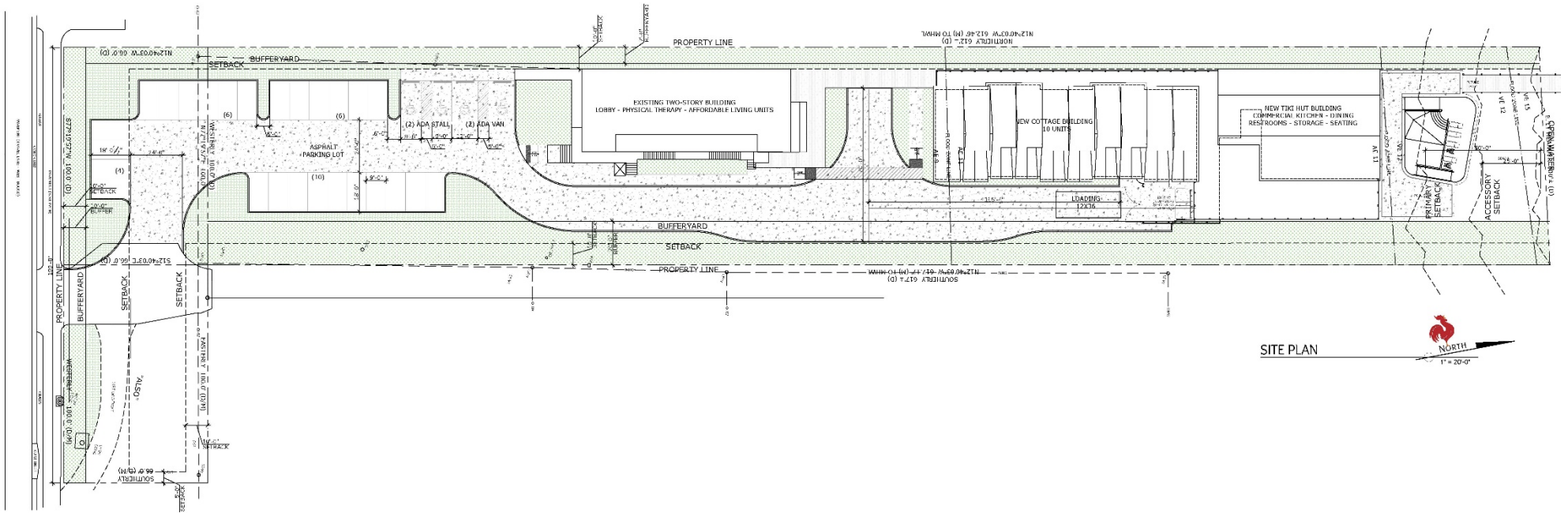
1. All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
2. As part of the permit application, all conditions of the Fire Marshal must be met prior to permit issuance, and hydrants must be operational prior to buildings going vertical.
3. City approval is required for the stormwater management system prior to Building Permit Approval.
4. Applicants must obtain all outside agency approvals prior permit issuance and prior to project initiation.
5. A Final Landscape Plan must be submitted showing the proper treatments and buffers, including the appropriate treatment types and trees. Since additional buffering was required and agreed to by the applicant, this additional buffering must also be reviewed and approved by the City prior to final project approval.
6. A Final Site Plan must be submitted showing the buildings meeting the required setbacks, parking locations, and access drives.
7. A sewer flow estimate from an engineer will be required to reassess any additional impact.
8. City approval of the connection to the City Wastewater Utility will be required. *However, the Utilities Department has stated that the existing vacuum main that services that property has no more capacity and is maxed out. They are therefore unwilling to add any more load on this line until the Fairfield Hotel lift station is completed and on-line. Based on existing contracts this should occur within one year. Until this work is complete no permit can be issued.*
9. The project exceeds 1 acre of development, and as such an FDEP general permit for NPEDS will be required.
10. An FDOT access permit and drainage permit/exemption is required for this project.
11. The existing topographic information is insufficient to determine impacts to adjacent properties. Additional information will be required, along the property lines and off-site.
12. The drainage calculations shown are preliminary but are not adequate for the issuance of a permit. The EOR is encouraged to contact the city prior to submittal of construction plans.
13. Any native vegetation removed must be mitigated per Section 106.10.
14. A unity of title for parcels will be required.

15. The private yard area for rooftop balcony dwelling is provided by the roof or balconies of the structure.
16. The total area of the mixed-use or commercial apartments, including patios and access way shall not exceed the area covered by the ground floor and any covered walks or arcades.
17. Each unit shall have access to a balcony or patio that is separate from the access to the unit, provides adequate privacy and the size shall be two-tenths (2/10) of unit floor area or a minimum of 60 square feet in size.
18. The patio area may be wholly or partially replaced by the provision of a recreation yard provided on site. Recreational yards shall be a minimum one-tenth (1/10) of unit floor area.
19. Dwelling units shall contain less than or equal to 1,800 square feet of habitable space.
20. Occupancy of affordable housing units is limited to those meeting the following income requirements:
  - A. Very-low-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 50 percent of the median adjusted gross annual income for households within the county;
  - B. Low-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 80 percent of the median adjusted gross annual income for households within the county;
  - C. Median-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 100 percent of the median adjusted gross annual income for households within the county;
  - D. Moderate-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 120 percent of the median adjusted gross annual income for households within the county;
  - E. Middle-income. A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 160 percent of the median adjusted gross annual income within the county;
  - F. For the purposes of this section, "adjusted gross income" means all wages, income from assets, regular cash or non-cash contributions or gifts from persons outside the household (that will be used to offset the purchase price of the dwelling unit), and such other resources and benefits as may be determined to be income by the United States Department of Housing and Urban Development, adjusted for family size, less deductions allowable under Section 62 of the Internal Revenue Code. Income from assets is calculated at either the actual income from all assets or two (2%) percent of the value of all assets, whichever is greater. If total assets are less than \$5,000.00, no income is considered. Asset inclusions: Cash accounts (checking, savings, IRA, Money Market...), investments, retirement accounts, boats, RV's. Income exclusions: Personal property, automobiles;
  - G. The maximum sales price shall not exceed 300 percent of that amount which represents 160 percent of the median adjusted gross annual income for households within the county;
  - H. The monthly rent shall not exceed 30 percent of that amount which represents the income bracket of the household, i.e., very low, low, median, moderate or middle, divided by 12. In no case shall the monthly rent exceed 160 percent of the median adjusted gross annual income for households within the county, divided by 12; and

- I. If the dwelling units utilize affordable housing BPAS allocations, the requirements of Subsection 107.06(c) shall also apply.
  - J. Annual income qualification, lease, or employment verification, as applicable, by the City, or its designee, shall be limited to rental and employee housing dwelling units. Income verification for owner occupied dwellings shall be performed and approved by the City or its designee prior to the sales closing and occupancy of the dwelling unit.
21. Affordable Housing Deed Restrictions must be filed prior to building permit issuance. Said deed restrictions shall be provided in a form acceptable to the City and shall be filed with the Monroe County Clerk of Court and shall run with the land for a period of ninety-nine (99) years.
  22. The Applicant must obtain and transfer two (2) market rate housing units, additional commercial square footage and four (4) affordable housing units, to be transferred via the Transfer of Building Rights (TBR's), BPAS process, or any other legally established process prior to building permit issuance. THE APPROVAL OF THE REQUESTED CONDITIONAL USE PERMIT AMENDMENTS DO NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF ANY RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT.
  23. The Conditional Use Development Order will constitute the Certificate of Concurrence for the project. The determination will be valid for one year.
  24. All construction of required streets and utilities shall be completed pursuant to this Section. Construction Guarantees shall be required pursuant to Sections 102.50 and 102.51 and shall provide that if the construction of the required improvements is not completed within two (2) years after approval of the final plat, the City may deem the applicant to be in default pursuant to Section 102.52 D.
  25. A community residential group home may be allowed pursuant to Table 103.15.1, subject to the following standards:
    - A. The home shall not be located within a radius of 1,000 feet of another existing small community residential group home unless otherwise approved as part of a conditional use permit.
    - B. Such a home shall only be occupied by persons meeting the definition for a resident in Fla. Stat. 419.001 and are clients of the governmental agencies enumerated in Fla. Stat. 419.001 and not by persons found by a court to have committed a delinquent act.
    - C. The establishment must conform to setback and height regulations for the zoning district.
    - D. The home shall be located to assure the safe care and supervision of all clients.
    - E. Pursuant to Fla. Stat. 419.001, homes with six (6) or fewer residents shall be deemed a single-family dwelling unit for the purposes of zoning and shall be allowed as a permitted use within all residential zoning districts. New residential dwelling units shall be subject to the requirements established in Article 1 "Building Permit Allocation System", of Chapter 107.
    - F. Homes with seven (7) to 14 residents shall require conditional use approval.

26. Approximately 36 hours in advance of tropical storm winds, a mandatory evacuation of the group home residents from the Keys shall be initiated.

# SITE PLAN



SITE PLAN

