



## City Council Staff Report

Meeting Date: July 22, 2024

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**TO:** Marco Island City Council

**FROM:** Mary P. Holden, Planning Manager

**DATE:** June 12, 2024

**RE:** Land Development Code Amendment, 24-000034, to adopt a new section to provide for authorization for mixed-use in Overlay District Two-a subject to conditional use approval

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### **PROJECT DESCRIPTION:**

The request is to provide for a text amendment to Section 30-224(14) of the City’s Land Development Code (“LDC”) by adding a new sub-section III to allow for mixed use in “Overlay District Two-a,” subject to conditional use approval. The application for the text amendment submitted by Oliverio Investment and Consulting Inc., and additional information are attached and provided in this Staff report.

### **PLANNING BOARD SUMMARY AND RECOMMENDATION:**

The Planning Board held a public hearing and considered this request at their June 7, 2024 meeting. After the request was presented by Staff and the applicant, the Planning Board discussed the applicability of the Live Local Act, what could be allowed in this overlay district, compliance with the Comprehensive Plan, whether the elimination of this overlay district to conditionally allow mixed use was a scrivener’s error, density, and similar topics. The public comments primarily concerned issues related density that could result from potential development. The Planning Board, after discussion, added an additional element to the criteria for the conditional use approval, that any mixed use projects in this overlay district would not be eligible for parking credits. The Planning Board voted 5-1 to forward a recommendation of approval based on the below findings and the added criteria that projects in this overlay district would not be eligible for parking credits:

1. The justification for approval of the amendment is based on the fact that the applicant is asserting that the amendment is necessary in order to reinstate the conditional use that was allowed prior to the 2006 Land Development Code amendment.
2. The proposed amendment is compliant with the following City of Marco Island Comprehensive Plan 2040 objectives and policies:

#### **Future Land Use Element:**

##### **Objective 2.1**

The City will implement LDC regulations that specify enhanced landscaping, signage and architectural standards consistent with the goal of maintaining the City’s small town coastal identity.

Policy 2.1.2

The City will continue to thoroughly and thoughtfully review and revise, as necessary, the list of permitted uses within zoning districts contained in the adopted LDC. The purpose for the reviews will be to ensure: Compatibility between land uses, that the needs of residents, businesses, and those they serve are met on-island to the extent possible, and that emerging and modern uses are addressed through the City’s regulatory framework.

**Objective 3.2**

To accommodate orderly and well-planned commercial and mixed-use development at appropriate locations to serve the residents, businesses, and those they serve.

Policy 3.2.2

The City will evaluate necessary updates to the LDC regulations to provide minimum standards and incentives for the conversion of strip commercial development into compact, integrated commercial and mixed-use projects that emphasize multi-modal access, public gathering space, interconnections between properties, and high aesthetic value.

Policy 3.2.4

The Community Commercial future land use category is intended to provide a range of commercial uses at arterial and collector intersections and nodes within the City outside of the Town Center/Mixed Use future land use category. These areas will be comprised of retail, office and mixed use land uses. Standard densities are limited to 12 du/acre. Hotel/motel densities are limited to 26 du/acre.

**APPLICANT:**

Oliverio Investment and Consulting Inc.  
267 N Collier Blvd  
Marco Island, FL 34145

**AGENT:**

Mr. Zachary W. Lombardo, Esq.  
3200 Tamiami Trail N., Suite 200  
Naples, FL 34103

**PROJECT ADDRESS:**

Street Address: The properties subject to this amendment are included in Overlay District Two-a, as identified in the City of Marco Island Land Development Code, and the City of Marco Island Zoning Map, being the following addresses:  
317, 297, 287, 277, 267, 257, 247, 243, 241, 239, 237, 235, 233, 231, 229, 227, 217, and 207 N. Collier Blvd.  
Marco Island, FL 33950

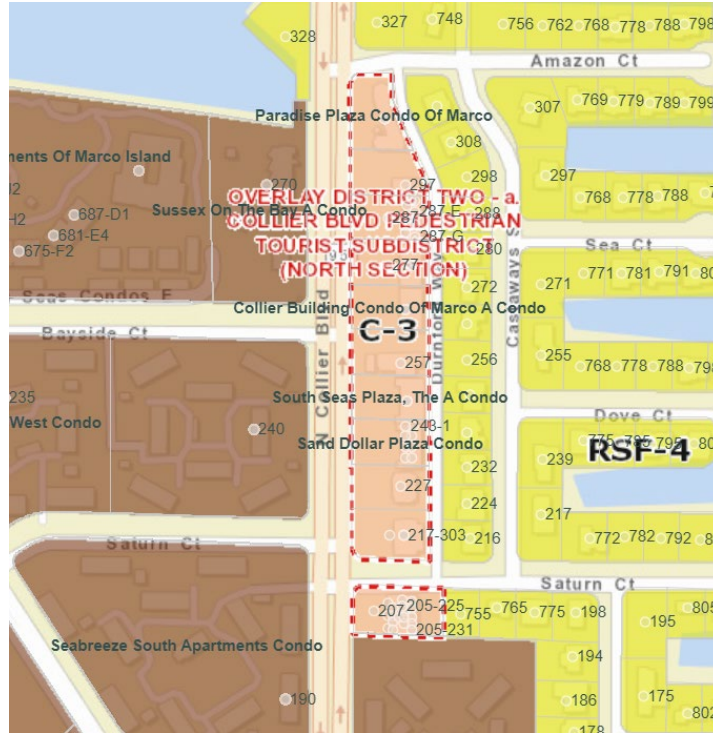
Legal Description:

Property ID#

Zoning:

C-3, Overlay District Two-a

**SUBJECT OVERLAY DISTRICT TWO-a MAP:**



**SUBJECT PARCEL AERIALS:**



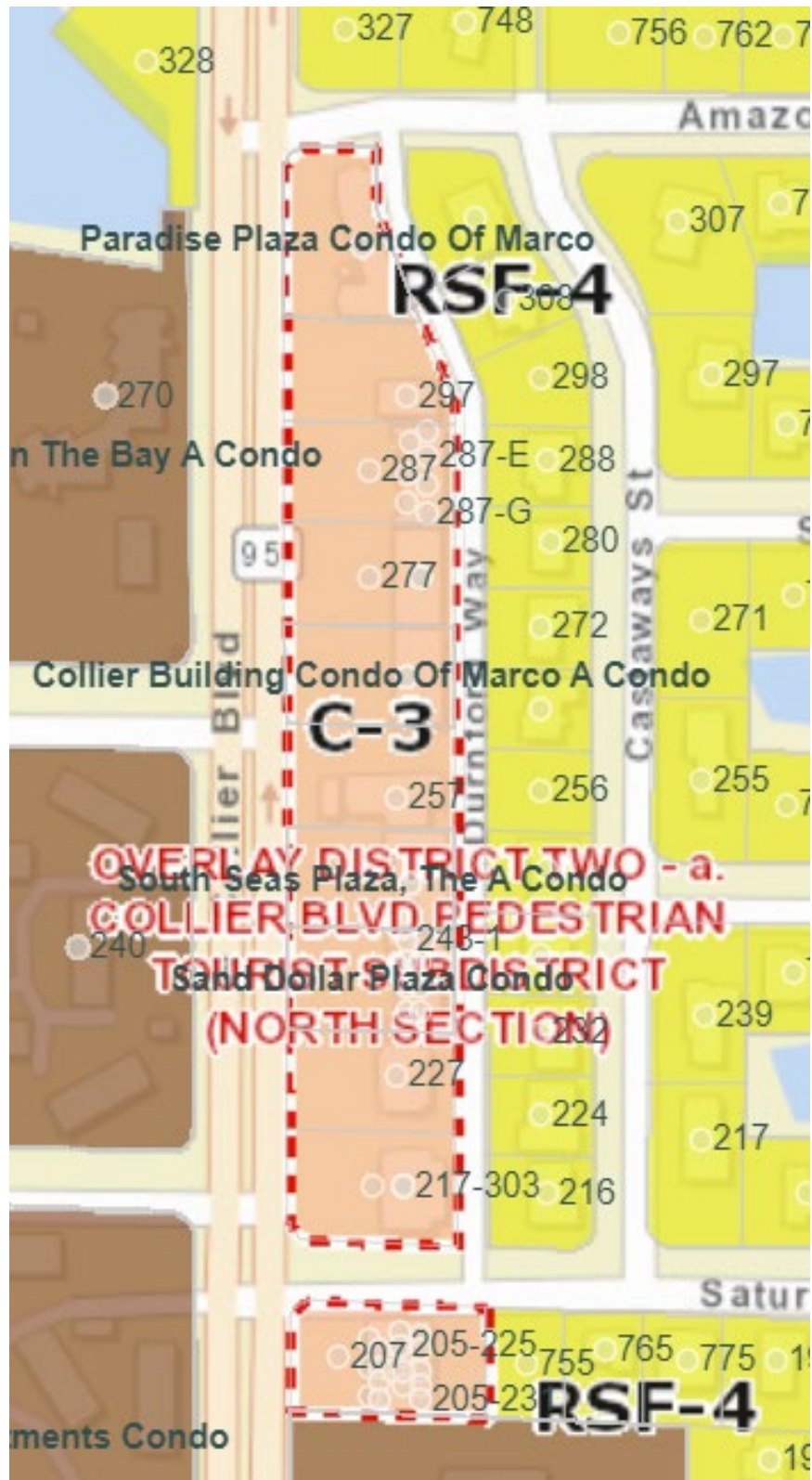
## STAFF ANALYSIS

The proposed language of the amendment mimics the language for the mixed-use in the other overlay districts, with two criteria being removed. The first criteria is related to the building height, which has been removed. Staff is fine with the removal of the building height limitation as the maximum building height is fifty (50') feet for all C-3 zoned properties. The second criteria being removed states the maximum height of a structure shall be measured from the base flood elevation to the mid-point of the roof. Since the City's LDC definition related to maximum height of a structure already states this, City staff is fine with this second criteria being removed.

The purpose of the proposed text amendment is to allow an applicant, subject to conditional use approval, to provide for residential on the upper levels without the restrictions of the recently adopted workforce housing regulations. In addition, mixed-use, similar to what is being proposed in this amendment, was previously permitted in this area prior to the City's 2006 LDC amendment. In Ordinance 06-10, the final "whereas" states "Mixed use development is considered the development of a tract of land, buildings, or structure with a variety of complementary and integrated uses and which development includes residential uses together with commercial uses such as office, retail, restaurants, or entertainment in compact urban form." The proposed LDC amendment meets the stated "whereas" of Ordinance 06-10. Below are the various overlay districts and which overlay districts conditionally allow for mixed-use. Please note only two of the six overlay districts do not allow for mixed-use.



Mixed use conditionally allowed including Marco Lake Subdistrict (C-4)  
Overlay District One and Three



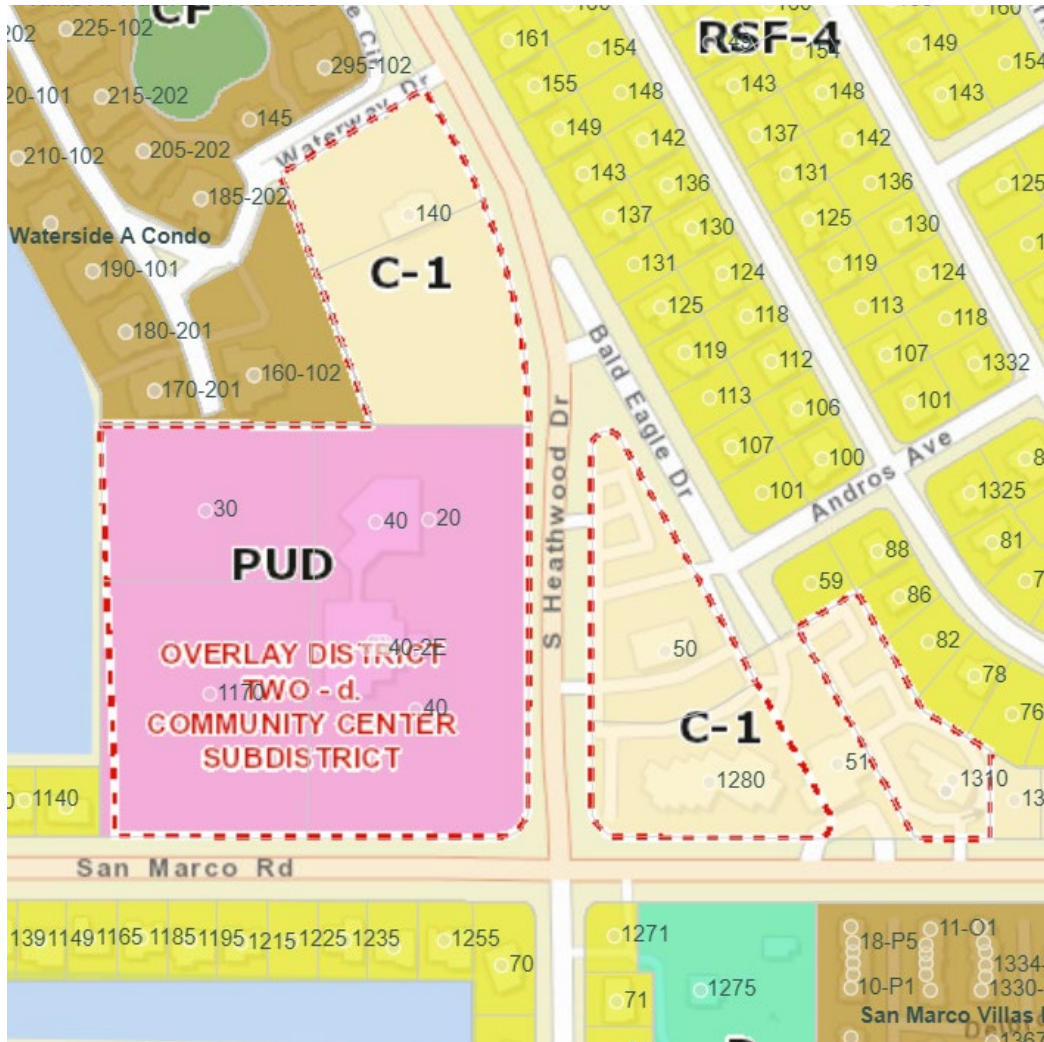
**Not** allowed-area under consideration  
Overlay District Two-a



Mixed use conditionally allowed.  
Overlay District Two-b.



Mixed use conditionally allowed.  
 Overlay District Two-c.



**Not** allowed in this subdistrict  
Overlay District Two-d.





Mixed use conditionally allowed.  
 Overlay District Four Village Commercial

If the text amendment is approved, the City’s LDC would allow for market rate housing with no income restrictions within the affected overlay district, subject to conditional use approval. If the text amendment is approved, any applicant must still submit an application for approval of a conditional use, and comply with the City’s process for public hearings before the Planning Board and City Council with the required notification to adjacent property owners.

Density will be addressed through the LDC and Comprehensive Plan. As shown in the Comprehensive Plan, C-3 has density assigned.

Following are the two items to consider when a LDC amendment is brought forth:

Sec. 30-62 (c.) (3) d. *Amendment to the LDC; nature of requirements of planning board report.* When pertaining to an amendment to the text of the LDC and other than a proposed rezoning, the planning board shall consider, study, and make findings with regard to:

**1. The need and justification for the change;**

The justification provided by the applicant for this amendment is to “restore” what once was allowed; however, the applicant has not demonstrated any specific need for the amendment.

2. **The relationship of the proposed LDC amendment to the purposes and goals, objectives, and policies, of the city's comprehensive, with appropriate consideration as to whether the proposed change will further the purposes of the LDC and other city codes, regulations, and actions designed to implement the growth management plan.**

The requested LDC amendment is in harmony with the following Objectives and Policies of the City of Marco Island Comprehensive Plan 2040:

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