

CITY COUNCIL AGENDA STATEMENT



Meeting Date: December 10, 2019
To: Honorable Mayor and Councilmembers
From: George Garrett, Planning Director
Through: Chuck Lindsey, City Manager

Agenda Item: **Resolution 2019-116**, Consideration Of A Request By Request By G98 Development LLC For An Extension of A Conditional Use Permit Pursuant To Chapter 102 Article 13 Of The City Of Marathon Land Development Regulations (LDRs) Entitled “Conditional Use Permits” For The Development Of Seven Modular Homes To Replace Seven Existing Homes On Property Located At 453, 455, 457 And 543 11th Street, Which Is Legally Described As Bk 1 Lots 3 Through 6 & Government Lot 1 Bay Bottom Adjacent To Lot 6, Riggs Subdivision, Hog Key, Marathon, Florida; Having Real Estate Numbers 00319960-000000 And 00319970-000000. Nearest Mile Marker 47.5.

APPLICANT/ OWNER: G98 Development LLC

AGENT: William E. Niemann

LOCATION: The project site is located at 453, 455, 457 And 543 11th Street, nearest mile marker 47.5. See Figure 1.

Figure 1
Project Site



REQUEST: An Extension of a Conditional Use Permit pursuant to Resolution 2016-20 authorizing the re-development of the subject property having the real estate numbers 00319960-000000 and 00319970-000000 with seven (7) residential units.

FUTURE LAND USE MAP DESIGNATION:

Residential High (RH). See Figure 2.

Figure 2
Future Land Use Map



ZONING MAP DESIGNATION:
Residential Mobile Home (R-MH). See Figure 3.

Figure 3
Zoning Map



LOT SIZE:
Total acreage: Approx. 88,836 sq. ft. of which 50,572 is uplands.

SURROUNDING ZONING AND USES:

	<u>Zoning</u>	<u>Use</u>
North	Residential Mobile Home	Ocean Breeze West
East	Residential Mobile Home, Mixed Use	Residential Neighborhood of 11 th street, Galway Bay, Marathon Nautical Gifts and future self-storage building.
South	Residential Mobile Home, Mixed Use	Marathon Animal Shelter, Lazy Days, Waters Edge Marina
West	NA	Boot Key Channel

EXISTING CONDITIONS:

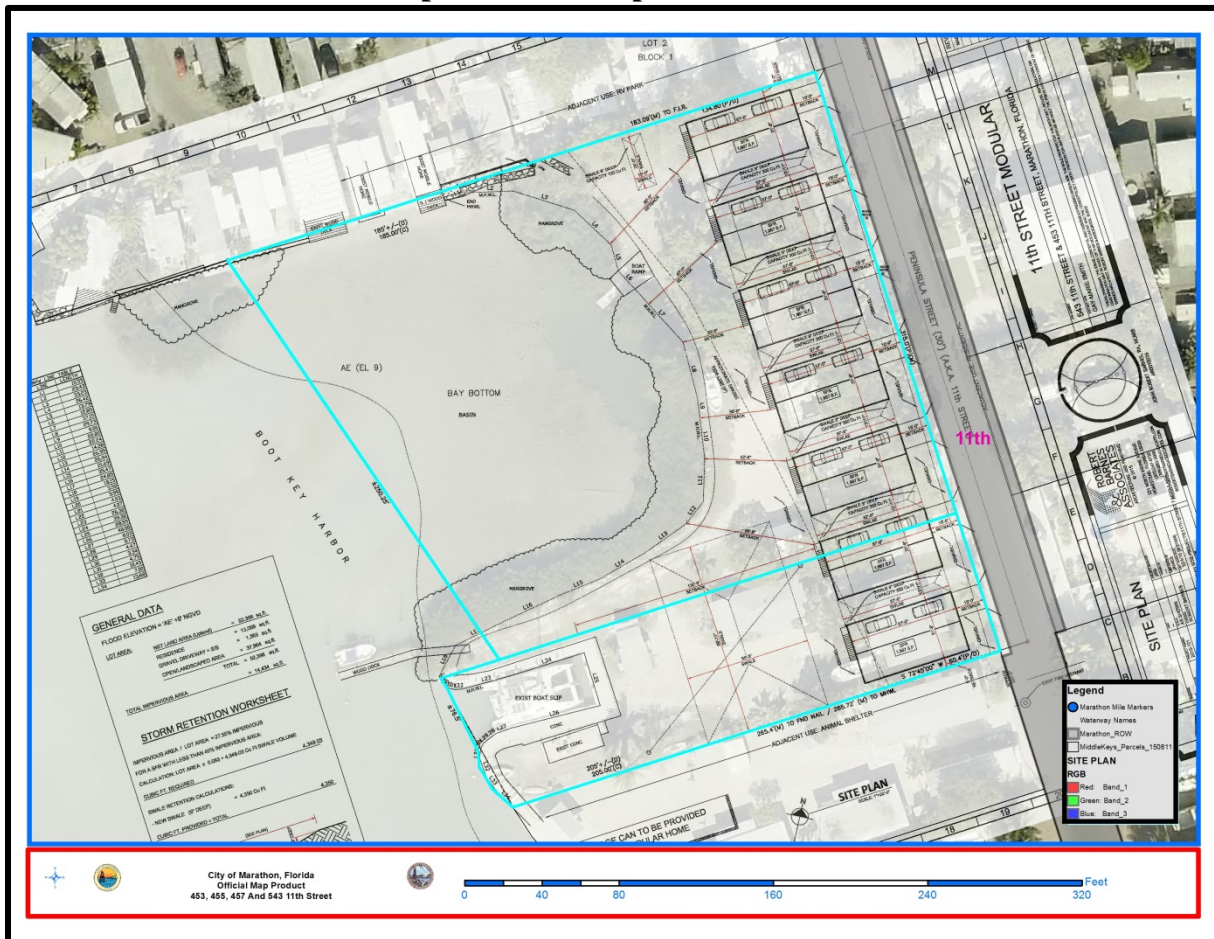
The project site consists of vacant lots that previously had seven (7) dwelling units on site.

PROPOSED REDEVELOPMENT:

Redevelopment of existing residential Units: 7 Market Rate Units

See Figure 4 for Site Plan layout.

**Figure 4
Proposed Redevelopment Site Plan**



BACKGROUND:

The proposed project is the redevelopment of seven residential units utilizing the existing developed lot. This report addresses the Conditional Use application associated with the Conditional Use Permit.

The Planning Commission reviewed the project on February 16, 2016, took public input and testimony, and based on all competent and substantial information and evidence, forward a

unanimous recommendation of approval for this redevelopment project. City Council reviewed the project on February 23rd 2016 and took public input and testimony, and based on all competent and substantial information and evidence, approved it with the following conditions. The new owner is seeking to extend the approval authorized under the previous conditional use.

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

EVALUATION FOR COMPLIANCE WITH THE LAND DEVELOPMENT REGULATIONS:

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

CRITERIA

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

The proposed development project is located within the Residential Mobile Home (R-MH) Zoning District. Per Chapter 103, Article 2, Section 103.12 of the Land Development Regulations, the district is designed to “establish areas of high-density residential uses characterized by mobile homes in mobile home parks, permanent RVs, and transient RVs where they have previously existed in the District, designated within the Residential High (RH) future land use category on the Future Land Use Map (FLUM).”

The proposed project consists of the development of existing developed land within the Residential High Zoning District. Section 103.15, Table 103.15.2, “Uses by Zoning District,” establishes whether specific uses are allowed as of right, limited, accessory or conditional use permit. That table shows that Market Rate residential units are allowed at a maximum of 8 units per acre and at numbers greater than three (3) are only approved through the Conditional Use Permit process. Conditional Use Permit review is intended to allow a broader view of the potential impacts of a project on adjacent uses and on City concurrency related resources such as road capacity, solid waste, sewer, and potable water availability.

Table 103.15.2 in the Land Development Regulations establishes constraints on density and intensity allowed in the R-MH district based on the types of uses proposed. Using the property area, the proposed use can have up to 9 residential units, however the applicant is just replacing the existing 7 residential units. Table 103.15.3 further qualifies the allowed range of intensities based on the intensity of retail use.

Development Type	Proposed	Maximum Allowed
Residential Units		
Market Rate	7	9
Affordable	0	0

The project as proposed meets the basic definition of development in the RMH 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 is located within the Residential High Future Land Use District. Policy 1-3.1.4 of the City of Marathon Comprehensive Plan states that the “principal purpose of the Residential High future land use category is to provide for high-density single-family, multi-family, and institutional residential development. The Residential High future land use category is characterized by high density compact development on lots with disturbed or scarified vegetation and areas that are appropriate for infill development and that are served by existing infrastructure.” The proposed project includes development of an existing residential high district into the same conditional use, which is consistent with the Residential High classification.

The existing land use pattern in the project vicinity consists of residential and commercial uses to the east; open water to the west; commercial uses to the south; and residential uses directly north.

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

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

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

The proposed conditional use does not adversely affect the health, and welfare of the public. The impacts on surrounding properties as a result of the proposed development should be positive.

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

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

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

The existing conditions maps indicate the subject area is designated as Developed Land. A small portion of the property is recognized as having Mangroves. However the proposed development will have no impact on the existing mangrove fringe.

In addition, the parcels are not within a ‘Species Focus Area’ as defined in the settlement for FEMA-FWS lawsuit.

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

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

Therefore, it is staff’s opinion that the request is ***in compliance*** with the requirements of these sections so long as the development is conditioned on provision of final landscaping and mitigation plans subject to approval of the City Biologist and final stormwater plans subject to City approval.

- A final landscaping and mitigation plan, subject to approval of the City Biologist, must be submitted prior to permit approval.
- A final stormwater plan must be submitted prior to permit approval.

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 proposed redevelopment of the existing seven units currently do not impede the flow of traffic through Marathon. The Level of Service for U.S. 1 is a Level of Service A. Any change in traffic generation, positive or negative would not impact the overall LOS for U.S. 1 in the project area.

Section 107.43 requires site triangles where the access drive intersects with the street. Clear site triangles must be shown on the site plan at time of building permit issuance.

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

- Clear sight triangles must be shown on the site plan at time of building permit issuance.

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

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

Use	Code Citation	Requirement	Spaces Required
Single and Two-Family, attached and detached	107.46.1	2 per dwelling unit	14

Total Required			14
Total Provided			14

The proposed site plan provided by the applicant shows the residential structures maintaining the required residential parking spaces.

The developer proposes provisions and arrangements for off-street parking and loading areas, with particular attention to ingress and egress, automobile, bicycle, and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe.

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 project consists of development of seven multi-family dwellings planned for future development. The applicant is not proposing an exterior lighting plan. If in the future the applicant proposes exterior lighting, they must provide detailed lighting plans which conform to the letter with the City of Marathon LDR's. The applicant's detailed plans should achieve the net result of no detrimental noise, glare or odors being generated by any of the uses.

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

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

Section 107.39 requires that all dumpsters and recycling bins be fully enclosed and screened. The site plan indicates that the dumpster is (hidden) screened. However, the applicant proposes individual garbage containers similar to what is existing on site. Should a shared dumpster be proposed it must be screened according to Code.

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:

- **Wastewater:** The applicant must coordinate with Wastewater Utilities Department for connection requirements. This project is replacing units already assessed, resulting in a de minimus impact.
- **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 development will have a de minimus impact on recreation and open space.
- Roadways: The applicant is developing the site with the same intensity that currently exists; therefore, resulting in a de minimus impact on transportation facilities.
- Educational Facilities: This redevelopment will have a de minimus impact on educational facilities since existing uses are replaced in kind.

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

- City approval is required for the stormwater management system prior to Building Permit Approval.
- A stormwater plan is required that provides the calculations for the retention of the 25 year/72 hour storm. Calculations require a routing analysis to insure the system can handle the runoff during the peak of the event.
- Detail grading plan depicting existing and proposed elevations. All runoff is required to be diverted to the stormwater system with no off-site discharge.
- City approval of the modified connection to the City Wastewater Utility will be required.

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

Section 107.71 C. requires that all single family and two-family residential uses shall be required to provide a minimum of two canopy trees for every 100 linear feet of property frontage along local streets. The proposed tree coverage for the 314 linear feet of frontages meets the minimum requirements.

Table 103.15.2 outlines setback requirements in the RMH district as follow: front yard 10’; side yards 5’; and, rear yard 10’.

Table 106.28.1 outlines setbacks requirements for a Principal structure on open water where original slope landward has been significantly altered by filling but a mangrove fringe exists that is contiguous from side lot line to side lot line and is at least ten (10) feet wide at the root zone; have a setback requirement of thirty (30) feet from MHWL or the landwards extent of the mangrove root system. A resource buffer distance is set at a 30 foot minimum from MHWL, since that is further landward than the root system.

This plan shows a 15’ setback on the front yard, 5’ setback on the northern and southern side yards, 32.42’ setback on the nearest shoreline.

Setback	Required	Required Landscape	Proposed	Compliant
Front	10	10	15	Y
North Side	5	N/A	5	Y
South Side	5	N/A	5	Y
Shoreline	30	N/A	32.42	Y

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

- Native Canopy Street trees must be planted according to Code.
- Applicant shall meet the minimum width and planting requirements per Table 107.70.2.

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, particularly for the non-residential portion of the project.

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

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

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

8. Required yards and other open space;

Section 106.16 established required open space for the project. The parcel is generally considered developed; therefore, a twenty percent open space requirement applies. To the greatest extent possible, the Applicant will be required to protect Regulated Trees, pursuant to Chapter 106, Article 2 of the LDRs. According to the submitted plans, 14,434 square feet of impervious area is proposed on site. This amounts to roughly 73% open space on site, this exceeds the open space requirement.

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

9. General compatibility with surrounding properties; and

The project is a development of long standing existing uses in an area of the City which is relatively dense and intense. Adjacent uses include commercial and residential establishments. A development of residential dwellings is expected to be fully compatible with these uses. The proposed project represents improvement to the current state of prior development, and is expected to increase compatibility with surrounding properties.

Section 107.40 restricts the height of buildings to 37' as measured from the crown of the roadway or unimproved grade. The site plans show that buildings are below 37'.

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

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

Section 104.48 Residential Dwelling Units contains special requirements.

The following criteria are applicable to this redevelopment:

- Plans must show a 10' interior setback between residential units.
- Any future alterations to the existing docking facilities will require the applicant to provide a copy of the DEP and ACOE permits and shall meet all conditions for Multi-family docking facilities. Docking facilities are a permitted use by right in all zoning districts.
- A unity of title must be filed to combine the two properties into one.

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

CONCLUSION:

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

The proposed development consists of the replacement and enhancement of a long standing existing residential use. 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.

RECOMMENDATION:

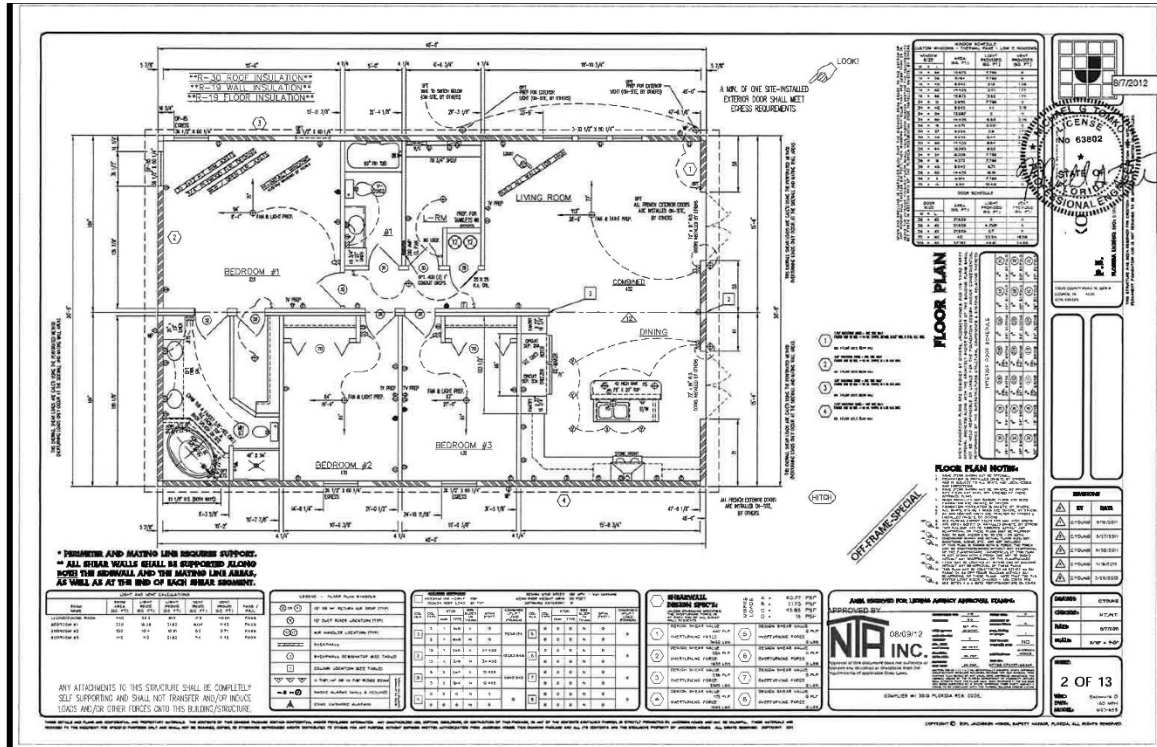
The Planning Commission reviewed the project on February 16, 2016, took public input and testimony, and based on all competent and substantial information and evidence, forward a unanimous recommendation of approval for this redevelopment project. The Planning Commission recommended conditional approval of the multi-family residential project known as JDI Tavasota Holding LLC to the City Council. City Council approved the Conditional Use on February 23rd 2016. Staff is recommending approval of the extension of the previous conditional use with the same conditions. The proposed conditions of approval are listed below.

Conditions of Approval

1. A final landscaping and mitigation plan, subject to approval of the City Biologist, must be submitted prior to permit approval.
2. A final stormwater plan must be submitted prior to permit approval.
3. City approval is required for the stormwater management system prior to Building Permit Approval.
4. A stormwater plan is required that provides the calculations for the retention of the 25 year/72 hour storm. Calculations require a routing analysis to insure the system can handle the runoff during the peak of the event.

5. Detail grading plan depicting existing and proposed elevations. All runoff is required to be diverted to the stormwater system with no off-site discharge.
6. City approval of the modified connection to the City Wastewater Utility will be required.
7. Native Canopy Street trees must be planted according to Code.
8. Applicant shall meet the minimum width and planting requirements per Table 107.70.2.
9. All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
10. Plans must show a 10' interior setback between residential units.
11. Any future alterations to the existing docking facilities will require the applicant to provide a copy of the DEP and ACOE permits and shall meet all conditions for Multi-family docking facilities. Docking facilities are a permitted use by right in all zoning districts.
12. A unity of title or combination of lots by the Property Appraiser is required.
13. Clear sight triangles must be shown on the site plan at time of building permit issuance;
14. The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.

Attachment B: Proposed Floor Plan



**CITY OF MARATHON, FLORIDA
RESOLUTION 2019- 116**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE REQUEST BY G98 DEVELOPMENT LLC EXTENDING A CONDITIONAL USE PERMIT PURSUANT TO CHAPTER 102 ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (LDRS) ENTITLED “CONDITIONAL USE PERMITS” FOR THE DEVELOPMENT OF SEVEN MODULAR HOMES TO REPLACE SEVEN EXISTING HOMES ON PROPERTY LOCATED AT 453, 455, 457 AND 543 11TH STREET, WHICH IS LEGALLY DESCRIBED AS BK 1 LOTS 3 THROUGH 6 & GOVERNMENT LOT 1 BAY BOTTOM ADJACENT TO LOT 6, RIGGS SUBDIVISION, HOG KEY, MARATHON, FLORIDA; HAVING REAL ESTATE NUMBERS 00319960-000000 AND 00319970-000000. NEAREST MILE MARKER 47.5.

WHEREAS, JDI Tavasota Holding LLC (The “Applicant”) filed an Application on December 15, 2015 for a Conditional Use Permit pursuant to Chapter 102, Articles 13 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS; the Applicant has proposed redevelopment of seven market rate residential properties on developed vacant land; and

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

WHEREAS, on the 16th day of February, 2016, the City of Marathon Planning Commission (the “Commission”) conducted a properly advertised public hearing (the “Public Hearings”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 8 of the LDRs; and

WHEREAS, and on the 23rd day of February, 2016, the City Council (the “Council”) conducted a properly advertised public hearing (the “Public Hearing”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 8 of the LDRs; and

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

and welfare of the residents of Marathon; and

WHEREAS; the previous Development Order for JDI Tavasota Holding LLC had expired; and

WHEREAS; G98 Development LLC seeks to extend the approval with a new Development Order, with no changes to the approved Conditional Use; and

WHEREAS, and on the 10th day of December, 2019, the City Council (the “Council”) conducted a properly advertised public hearing (the “Public Hearing”) regarding the request submitted by the Applicant, for an extension of a Conditional Use Permit pursuant to Chapter 102, Article 8 of the LDRs; and

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

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

Section 2. The City Council hereby approves Resolution 2019-116, Development Order 2019-16, a copy of which is attached hereto as Exhibit “A”, granting a Conditional Use Permit to G98 Development LLC, subject to the Conditions imposed. The Director of Planning is authorized to sign the Development Order on behalf of the City.

Section 3. This resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 10TH DAY OF DECEMBER, 2019.

THE CITY OF MARATHON, FLORIDA

Steven Cook, Mayor

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Diane Clavier, City Clerk
(City Seal)

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

David Migut, City Attorney



**CITY OF MARATHON, FLORIDA
CONDITIONAL USE
DEVELOPMENT ORDER # 2019-16**

A DEVELOPMENT ORDER APPROVING THE REQUEST BY G98 DEVELOPMENT LLC EXTENDING A CONDITIONAL USE PERMIT PURSUANT TO CHAPTER 102 ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (LDRS) ENTITLED “CONDITIONAL USE PERMITS” FOR THE DEVELOPMENT OF SEVEN MODULAR HOMES TO REPLACE SEVEN EXISTING HOMES ON PROPERTY LOCATED AT 453, 455, 457 AND 543 11TH STREET, WHICH IS LEGALLY DESCRIBED AS BK 1 LOTS 3 THROUGH 6 & GOVERNMENT LOT 1 BAY BOTTOM ADJACENT TO LOT 6, RIGGS SUBDIVISION, HOG KEY, MARATHON, FLORIDA; HAVING REAL ESTATE NUMBERS 00319960-000000 AND 00319970-000000. NEAREST MILE MARKER 47.5.

WHEREAS, JDI Tavasota Holding LLC, (The “Applicant”) filed an Application on December 15, 2015 for a Conditional Use Permit pursuant to Chapter 102, Articles 13 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS; the Applicant has proposed redevelopment of seven market rate residential properties on developed land; and

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

WHEREAS, on the 16th day of February, 2016, the City of Marathon Planning Commission (the “Commission”) conducted a properly advertised public hearing (the “Public Hearings”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 8 of the LDRs; and

WHEREAS, and on the 23rd day of February, 2016, the City Council (the “Council”) conducted a properly advertised public hearing (the “Public Hearing”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 8 of the LDRs; and

WHEREAS, and on the 10th day of December, 2019, the City Council (the “Council”) conducted a properly advertised public hearing (the “Public Hearing”) regarding the request submitted by the Applicant, for an extension of a Conditional Use Permit pursuant to Chapter 102, Article 8 of the LDRs; and

WHEREAS; the City Council made a determination that the Applicant’s request for a Conditional Use Permit, subject to the terms of the LDRs and with Conditions imposed, was in

Compliance with the City's Comprehensive Plan and LDRs, is consistent with its policy to encourage the redevelopment of residential properties in Marathon, and will further the health, safety and welfare of the residents of Marathon; and

WHEREAS; the previous Development Order for JDI Tavasota Holding LLC had expired; and

WHEREAS; G98 Development LLC seeks to extend the approval with a new Development Order, with no changes to the approved Conditional Use; and

WHEREAS, the Council has duly considered the recommendation of the PC, and the information and documentary evidence submitted by JDI Tavasota Holding LLC, and does hereby find and determine as provided below.

FINDINGS OF FACT:

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

8. Required yards and other open space;
9. General compatibility with surrounding properties; and

CONDITIONS IMPOSED:

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

Conditions of Approval

1. A final landscaping and mitigation plan, subject to approval of the City Biologist, must be submitted prior to permit approval.
2. A final stormwater plan must be submitted prior to permit approval.
3. City approval is required for the stormwater management system prior to Building Permit Approval.
4. A stormwater plan is required that provides the calculations for the retention of the 25 year/72 hour storm. Calculations require a routing analysis to insure the system can handle the runoff during the peak of the event.
5. Detail grading plan depicting existing and proposed elevations. All runoff is required to be diverted to the stormwater system with no off-site discharge.
6. City approval of the modified connection to the City Wastewater Utility will be required.
7. Native Canopy Street trees must be planted according to Code.
8. Applicant shall meet the minimum width and planting requirements per Table 107.70.2.
9. All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
10. Plans must show a 10' interior setback between residential units.
11. Any future alterations to the existing docking facilities will require the applicant to provide a copy of the DEP and ACOE permits and shall meet all conditions for Multi-family docking facilities. Docking facilities are a permitted use by right in all zoning districts.
12. A unity of title or lot combination by the Property Appraiser is required.
13. Clear sight triangles must be shown on the site plan at time of building permit issuance; The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.

VIOLATION OF CONDITIONS:

The applicant understands and acknowledges that it must comply with all of the terms and conditions herein, and all other applicable requirements of the City or other governmental agencies applicable to the use of the Property. In accordance with the Code, the Council may revoke this approval upon a determination that the Applicant or its successor or designee is in non-compliance with this Resolution or Code. Failure to adhere to the terms and conditions of approval contained herein is a violation of the Code and persons found violating the conditions shall be subject to the penalties prescribed therein.

CONCLUSIONS OF LAW:

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

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

EFFECTIVE DATE:

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

Date

George Garrett
Director of Planning

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

Diane Clavier, City Clerk

NOTICE

Under the authority of Section 102.79(c) of the City of Marathon Land Development Regulations, this development order shall become null and void with no further notice required by the City, unless a business license has been issued for the use or a complete building permit application for site preparation and building construction with revised plans as required herein is submitted to the City of Marathon Building Official within one (1) year from the date of conditional use approval, or the date when the Department of Community Affairs waives its appeal and all required certificates of occupancy are procured with three (3) years of the date of this development order is approved by the City Council.

In addition, please be advised that pursuant to Chapter 9J-1, Florida Administrative Code, this instrument shall not take effect for forty-five (45) days following the rendition to the Florida Department of Community Affairs. During that forty-five days, the Florida Department of Economic Opportunity may appeal this instrument to the Florida Land and Water Adjudicatory Commission, and that such an appeal stays the effectiveness of this instrument until the appeal is resolved by agreement or order.

CERTIFICATE OF SERVICE

A true and correct copy of the above and foregoing Resolution was furnished, via U.S. certified mail, return receipt requested, addressed to William E. Niemann 1215 E. Hillsboro Blvd, Deerfield Beach, FL 33441, this ___ day of _____, 2019.

Diane Clavier, City Clerk

**CITY OF MARATHON, FLORIDA
RESOLUTION 2016- 20**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE REQUEST BY JDI TAVASOTA HOLDING LLC FOR A CONDITIONAL USE PERMIT PURSUANT TO CHAPTER 102 ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (LDRS) ENTITLED “CONDITIONAL USE PERMITS” FOR THE DEVELOPMENT OF SEVEN MODULAR HOMES TO REPLACE SEVEN EXISTING HOMES ON PROPERTY LOCATED AT 453, 455, 457 AND 543 11TH STREET, WHICH IS LEGALLY DESCRIBED AS BK 1 LOTS 3 THROUGH 6 & GOVERNMENT LOT 1 BAY BOTTOM ADJACENT TO LOT 6, RIGGS SUBDIVISION, HOG KEY, MARATHON, FLORIDA; HAVING REAL ESTATE NUMBERS 00319960-000000 AND 00319970-000000. NEAREST MILE MARKER 47.5.

WHEREAS, JDI Tavasota Holding LLC (The “Applicant”) filed an Application on December 15, 2015 for a Conditional Use Permit pursuant to Chapter 102, Articles 13 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS; the Applicant has proposed redevelopment of seven market rate residential properties on developed vacant land; and

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

WHEREAS, on the 16th day of February, 2016, the City of Marathon Planning Commission (the “Commission”) conducted a properly advertised public hearing (the “Public Hearings”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 8 of the LDRs; and

WHEREAS, and on the 23rd day of February, 2016, the City Council (the “Council”) conducted a properly advertised public hearing (the “Public Hearing”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 8 of the LDRs; and

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

safety and welfare of the residents of Marathon; and

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

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

Section 2. The City Council hereby approves Development Order 2016-02, a copy of which is attached hereto as Exhibit "A", granting a Conditional Use Permit to JDI Tavasota Holding LLC, subject to the Conditions imposed. The Director of Planning is authorized to sign the Development Order on behalf of the City.

Section 3. This resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 23RD DAY OF FEBRUARY, 2016.


THE CITY OF MARATHON, FLORIDA



Mark Senmartin, Mayor

AYES: Zieg, Kelly, Bartus, Coldiron, Senmartin
NOES: None
ABSENT: None
ABSTAIN: None

ATTEST:



Diane Clavier, City Clerk
(City Seal)

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



David Migut, City Attorney



**CITY OF MARATHON, FLORIDA
CONDITIONAL USE
DEVELOPMENT ORDER # 2016-02**

A DEVELOPMENT ORDER APPROVING THE REQUEST BY JDI TAVASOTA HOLDING LLC FOR A CONDITIONAL USE PERMIT PURSUANT TO CHAPTER 102 ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (LDRS) ENTITLED "CONDITIONAL USE PERMITS" FOR THE DEVELOPMENT OF SEVEN MODULAR HOMES TO REPLACE SEVEN EXISTING HOMES ON PROPERTY LOCATED AT 453, 455, 457 AND 543 11TH STREET, WHICH IS LEGALLY DESCRIBED AS BK 1 LOTS 3 THROUGH 6 & GOVERNMENT LOT 1 BAY BOTTOM ADJACENT TO LOT 6, RIGGS SUBDIVISION, HOG KEY, MARATHON, FLORIDA; HAVING REAL ESTATE NUMBERS 00319960-000000 AND 00319970-000000. NEAREST MILE MARKER 47.5.

WHEREAS, JDI Tavasota Holding LLC, (The "Applicant") filed an Application on December 15, 2015 for a Conditional Use Permit pursuant to Chapter 102, Articles 13 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS; the Applicant has proposed redevelopment of seven market rate residential properties on developed land; and

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

WHEREAS, on the 16th day of February, 2016, the City of Marathon Planning Commission (the "Commission") conducted a properly advertised public hearing (the "Public Hearings") regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 8 of the LDRs; and

WHEREAS, and on the 23rd day of February, 2016, the City Council (the "Council") conducted a properly advertised public hearing (the "Public Hearing") regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 8 of the LDRs; and

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

WHEREAS, the Council has duly considered the recommendation of the PC, and the

information and documentary evidence submitted by JDI Tavasota Holding LLC, and does hereby find and determine as provided below.

FINDINGS OF FACT:

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

CONDITIONS IMPOSED:

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

Conditions of Approval

1. A final landscaping and mitigation plan, subject to approval of the City Biologist, must be submitted prior to permit approval.
2. A final stormwater plan must be submitted prior to permit approval.
3. City approval is required for the stormwater management system prior to Building Permit Approval.
4. A stormwater plan is required that provides the calculations for the retention of the 25 year/72 hour storm. Calculations require a routing analysis to insure the system can handle the runoff during the peak of the event.
5. Detail grading plan depicting existing and proposed elevations. All runoff is required to be diverted to the stormwater system with no off-site discharge.
6. City approval of the modified connection to the City Wastewater Utility will be required.
7. Native Canopy Street trees must be planted according to Code.
8. Applicant shall meet the minimum width and planting requirements per Table 107.70.2.
9. All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
10. Plans must show a 10' interior setback between residential units.
11. Any future alterations to the existing docking facilities will require the applicant to provide a copy of the DEP and ACOE permits and shall meet all conditions for Multi-family docking facilities. Docking facilities are a permitted use by right in all zoning districts.
12. A unity of title or lot combination by the Property Appraiser is required.
13. Clear sight triangles must be shown on the site plan at time of building permit issuance; The Conditional Use Development Order will constitute the Certificate of Concurrence for the project. The determination will be valid for one year.

VIOLATION OF CONDITIONS:

The applicant understands and acknowledges that it must comply with all of the terms and conditions herein, and all other applicable requirements of the City or other governmental agencies applicable to the use of the Property. In accordance with the Code, the Council may revoke this approval upon a determination that the Applicant or its successor or designee is in non-compliance with this Resolution or Code. Failure to adhere to the terms and conditions of approval contained herein is a violation of the Code and persons found violating the conditions shall be subject to the penalties prescribed therein.

CONCLUSIONS OF LAW:

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

1. The Application has been processed in accordance with the applicable provisions of the City

Code, and will not be detrimental to the community as a whole; and

2. In rendering its decision, as reflected in this Resolution, the Council has:
 - (a) Accorded procedural due process;
 - (b) Observed the essential requirements of the law;
 - (c) Supported its decision by substantial competent evidence of record; and
3. The Application for a conditional use permit is hereby GRANTED subject to the conditions specified herein.

EFFECTIVE DATE:

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

2/26/2016
Date

George Garrett
George Garrett
Director of Planning

This Development Order was filed in the Office of the City Clerk of this 25 day of Feb., 2016.

Diane Clavier
Diane Clavier, City Clerk

NOTICE

Under the authority of Section 102.79(c) of the City of Marathon Land Development Regulations, this development order shall become null and void with no further notice required by the City, unless a business license has been issued for the use or a complete building permit application for site preparation and building construction with revised plans as required herein is submitted to the City of Marathon Building Official within one (1) year from the date of conditional use approval, or the date when the Department of Community Affairs waives its appeal and all required certificates of occupancy are procured with three (3) years of the date of this development order is approved by the City Council.

In addition, please be advised that pursuant to Chapter 9J-1, Florida Administrative Code, this instrument shall not take effect for forty-five (45) days following the rendition to the Florida Department of Community Affairs. During that forty-five days, the Florida Department of Economic Opportunity may appeal this instrument to the Florida Land and Water Adjudicatory Commission, and that such an appeal stays the effectiveness of this instrument until the appeal is resolved by agreement or order.

CERTIFICATE OF SERVICE

A true and correct copy of the above and foregoing Resolution was furnished, via U.S. certified mail, return receipt requested, addressed to Gay Marie Smith, PO Box 1638, Tavernier, FL 33070, this 25 day of February 2016.