

CITY COUNCIL AGENDA STATEMENT



Meeting Date: December 13, 2022
To: Honorable Mayor and City Council
From: Brian Shea, Planning Director
Through: George Garrett, City Manager

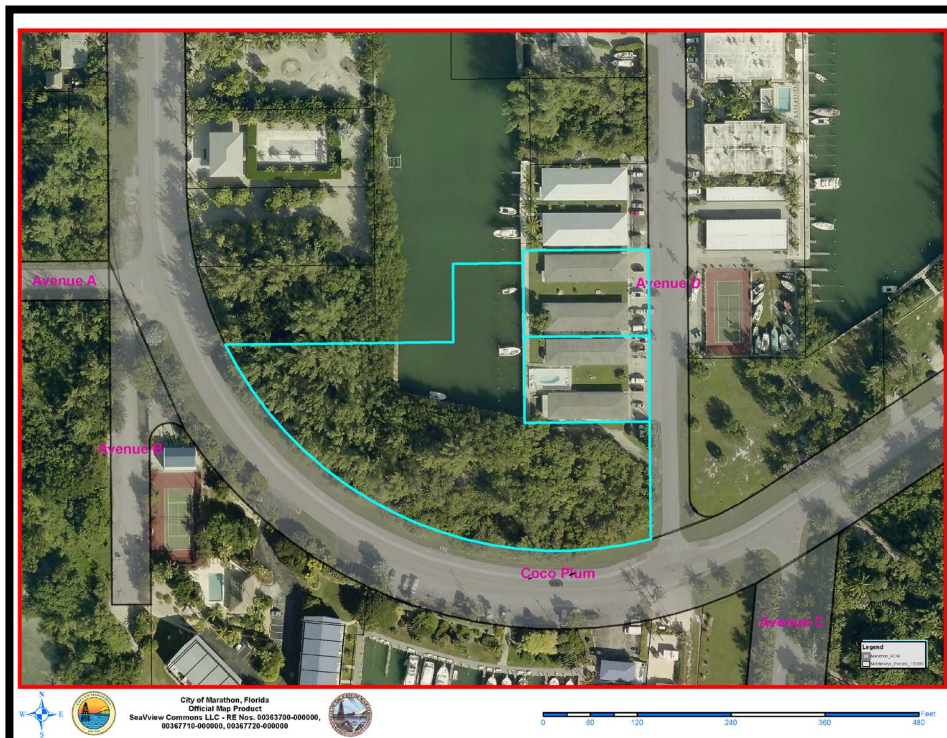
Agenda Item: **Resolution 2022-131**, Consideration Of A Request By Coco Vista Community, LTD. And VC Seaview, LTD. For A Conditional Use Permit, Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (“The Code”) Entitled “Conditional Use Permits”, Authorizing The Development Of Sixty-Four (64) Affordable Housing Units Located At 96 Coco Plum Dr. Which Is Legally Described As Block 7 Lot 9 Coco Plum Beach PB4-166 Fat Deer Key, Monroe County, Florida, Having Real Estate Number 00363700-000000, Block 7 Lot 11 and Adjacent Canal Coco Plum Beach PB4-166 Fat Deer Key, Monroe County, Florida, Having Real Estate Number 00363720-000000 And Block 7 Lot 10 And Adjacent Canal Coco Plum Beach PB4-166 Fat Deer Key, Monroe County, Florida, Having Real Estate Number 00363710-000000. Nearest Mile Marker 54.

APPLICANT/ OWNER: Coco Vista Community Limited and VC Seaview, LTD

AGENT: Bart Smith, Smith/Hawks

LOCATION: The project site is located on three properties located at 100 Avenue D and an adjacent vacant property on Coco Plum Road. See Figure 1.

Figure 1
Project Site



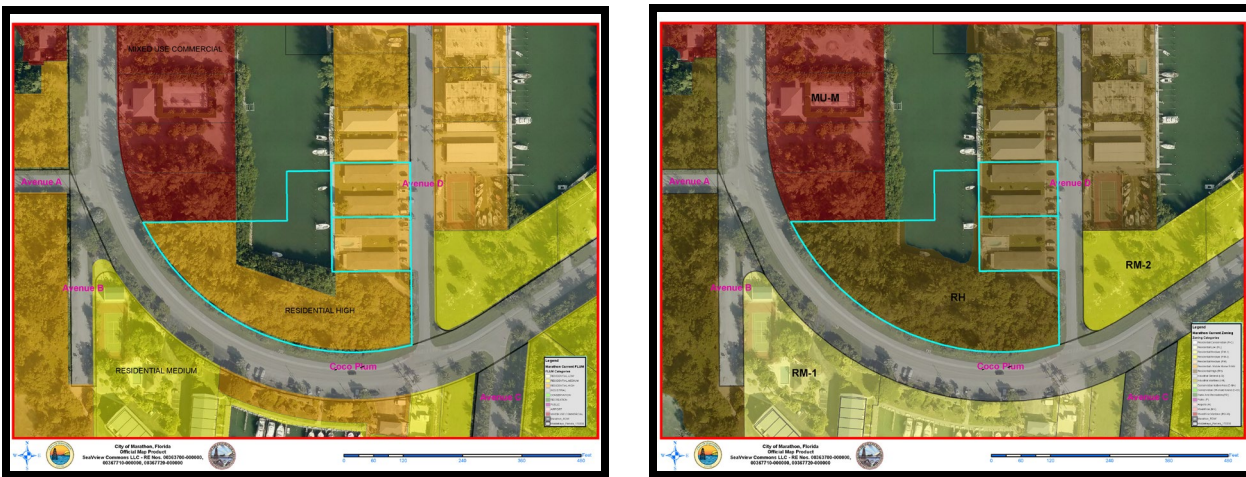
REQUEST: Approval of a Conditional Use Permit and Development Agreement for the Approval for redevelopment of the subject properties 00367700-000000, 00367710-000000, 00367720-000000, providing for the demolition of four apartment buildings containing fifteen residential units and providing for the development of sixty-four (64) affordable units.

Affordable Units: 64 multi-family residential units in five (5) buildings;
 Leasing Office: 1 Site Managers Office

All current tenants have been evaluated for meeting FHFC / LIHTC project criteria for income limits. Of the fifteen units on the existing site, all but one will income qualify for the redevelopment project. The Applicant will accommodate those individuals at other locations during the construction phase of the project.

FUTURE LAND USE MAP DESIGNATION:
 Mixed Use Commercial (MUC). See Figure 2 A & B.

Figure 2 A & B
Future Land Use & Zoning Maps



LOT SIZE:
 Total acreage: 3.20 acres or 139,583 square feet

Upland Acres: 2.693 Acres
 Submerged Acres: 0.507 Acres

SURROUNDING ZONING AND USES:

	<u>FLUM</u>	<u>Use</u>
North	RH & MU-M	Avenue D - Residential Apartments & Single Family Homes Coco Plum Road – Single Family Homes & Mixed Marine Light Industrial
East	RH & RM-2	Multi- and single family residences
West	RH	Vacant Lands & Pescayo Village Plat (SFRs)
South	RM & RH	Bonefish Yacht Club, 2Js Properties LLC, & In-Ter Nos

		Properties LLC
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EXISTING CONDITIONS:

The project site consists of three (3) parcels. Two parcels on Avenue D have existing multi-family development; each with two ground level apartments consisting of four units per building on each lot for a total of fifteen (15) units (The site managers unit equate to a double unit).

Market Rate Units: 15 Apartment efficiencies

PROPOSED REDEVELOPMENT:

Affordable Units: 64 multi-family residential units in five (5) buildings
 Leasing Office: 1 Site Managers Office

All current tenants have been evaluated for meeting FHFC / LIHTC project criteria for income limits. Of the fifteen units on the existing site, all but one will income qualify for the redevelopment project. The Applicant will accommodate those individuals at other locations during the construction phase of the project.

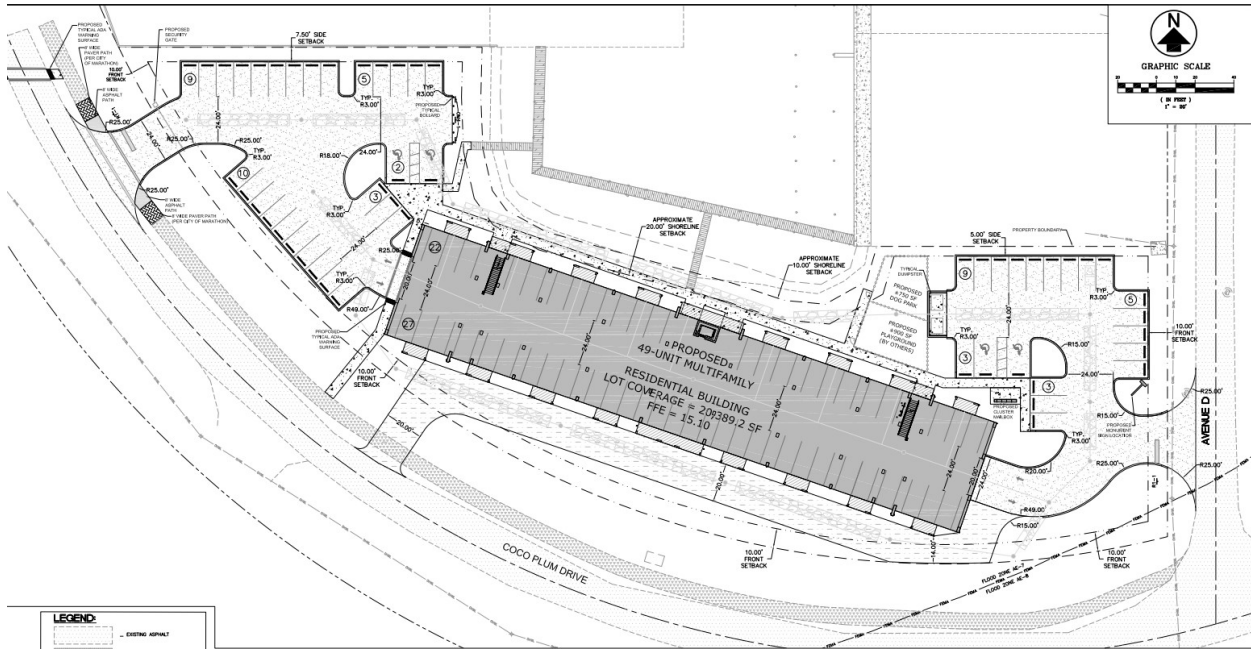
BACKGROUND:

The proposed project consists of a redevelopment of two properties on Avenue D in Coco Plum with two four unit ground level apartments each. In addition, the project will include a vacant parcel adjacent to the developed parcels which has frontage on Avenue D, but consists mostly of frontage on Coco Plum Road. There were previous redevelopment plans for the site, which did not come to fruition.

The current project will include a total of sixty-four (64) apartments in five (5) buildings. The new structures will be elevated to meet minimum flood requirements and to accommodate parking under the structure. The project applicant proposes in addition, a robust vegetative buffer between the building site area and Coco Plum Road. The City has agreed that the applicant can enhance landscaping as part of the development within the approximately thirty (30) foot area between the project southwesterly property line and the bike path the parallels Coco Plum Road.

At this juncture, the site plan has been adjusted to reflect the vehicular exit being relocated further up Coco Plum, and an emergency only vehicle exit at the bend. The entrance will remain for the purposes of emergency access only.

Figure 3
Proposed Redevelopment Site Plan
Coco Plum Road Exit Has Been Eliminated For General Access



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 redevelopment project is located within the Residential High (RH) Zoning District. Per Chapter 103, Article 2, Section 103.09 of the Land Development Regulations, the district “is intended to establish areas of high-density residential uses characterized by multi-family dwellings and mobile homes designated within the Residential High (RH) future land use category on the Future Land Use Map (FLUM).”

The proposed project consists of the creation of affordable housing and is consistent with the Residential High Zoning District. Section 103.15 establishes whether specific uses are allowed as of right, limited, accessory or conditional uses, through Table 103.15.2. That table shows that Multifamily Residential uses 5+ are allowed as Conditional Uses in the Residential High district. Conditional Use review is intended to allow a broader view of the potential impacts of a project on adjacent uses and on City concurrency related resources such as road capacity, solid waste, sewer, and potable water availability.

Table 103.15.2 in the Land Development Regulations establishes constraints on density and intensity allowed in the RH district based on the types of uses proposed. This site has the density potential for 67 affordable residential units. The applicant is proposing 64 affordable units. The calculation is based on an allowed affordable residential density within the Residential

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

Therefore, 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 land use category is to provide for high-density single-family, multi-family, and institutional residential development. The Residential High 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 existing land use pattern in the project vicinity consists of multi-family residential development to the North on Avenue D and South across Coco Plum Road. Further, there is a mixed residential, commercial, and marine development pattern on Coco Plum Road leading to the East on Avenue E and beyond, the development is characterized by Single Family residences. Avenue E is isolated from Avenue D by a 200 foot wide canal. To the West lie vacant properties across Coco Plum Road and the small single family residential subdivision of Pescayo Village. This project is consistent with allowed densities on Pescayo Road and Ave D. The project, as proposed, is slightly under allowed densities for an affordable housing project. Staff believes that the density of the project is consistent with the FLUM and Zoning and the general character of development in the immediate surrounding area.

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

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

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

The proposed use is the development of affordable residential use which as proposed should have no adverse impact to the health, safety and welfare of the public. The project will incorporate the required standards of landscape and open space by the City of Marathon, as well as the requirements set forth by Florida Housing Finance Corporation (FHFC) for Low Income Housing Tax Credit Projects (LIHTC).

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 Disturbed / Undeveloped Land. The FEMA_FWS Species Focus Area Maps indicate that the property is characterized by Exotics and mangroves at the canal edge. More recent and detailed assessments indicate that the majority of the property as indicated is characterized by exotics with mangroves at the waters wedge, but that there are quite a number of native trees as well. However the proposed development will increase the native vegetation on site as part of the landscaping plan. See Figures 4 A, B, & C

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.

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.

Figure 4A, 4B, and 4C
Adopted Habitat Maps / FEMA-FWS SFAs

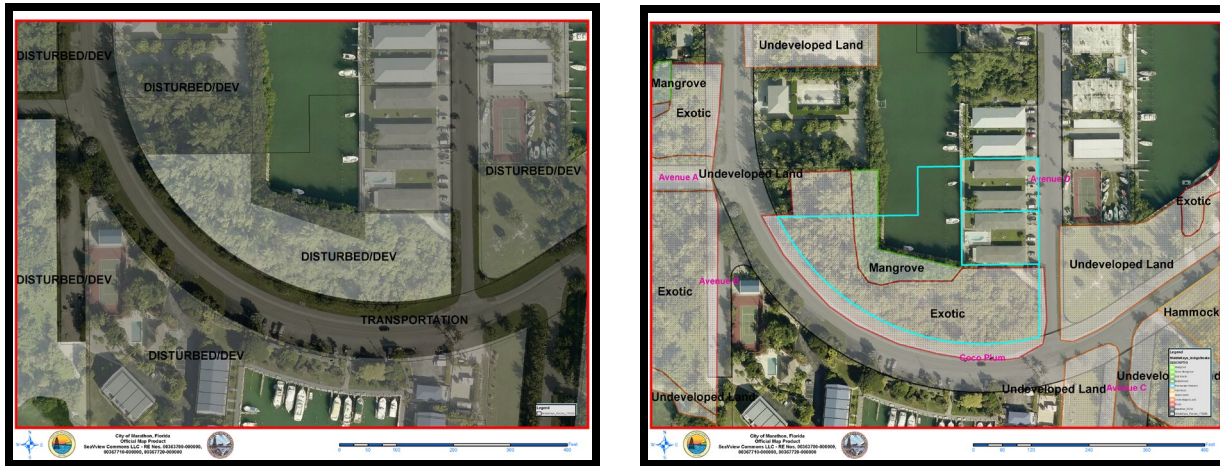


Figure 5 C
Recent Habitat Assessment Maps



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.

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

- Existing native canopy and understory trees should be transplanted if possible or mitigated for if necessary within the proposed and finally approved landscape plan.
- If the redevelopment is found to have any effect on the Eastern Indigo Snake, then the prescribed protection measures must be undertaken, and the information poster posted on site.

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

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

The applicant has provided a breakdown of the proposed occupancy of the onsite buildings. The “Trip Generation Analysis” schedule provided in the Traffic Study indicates that there will be an increase in trip generation from the existing use to the proposed use for the apartments. The traffic study determined that a level 2 traffic study was required based on the expected trip generation for the project. The updated study, based on the elimination of trips directly onto Coco Plum Road, finds that the proposed increase in units will not have an adverse impact on the operating characteristics of either Coco Plum Road or Avenue D, nor will it inhibit the safe flow of traffic traveling through the City of Marathon.

Ingress and egress to the properties is currently proposed to be located both on Avenue D and Coco Plum Road. However, the Applicant is limiting the access on the curve of Coco Plum as emergency access only.

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

- As part of the permit application, all conditions of the Fire Marshal regarding ingress and egress must be met prior to permit issuance. In addition, all fire hydrants must be in place prior to any of the proposed buildings “going vertical.”

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 applicant has proposed parking spaces to be located primarily under the townhome structures. The applicant proposes 112 off street parking spaces for tenants under the proposed apartment buildings (2 spaces per tenant). In addition, the Applicant has proposed visitor parking and adequate ADA parking. All tenant parking will reside under each residential building.

Section 107.52 includes a requirement that one handicapped space be provided for every 25 spaces required. For 112 required spaces, 5 handicapped spaces are required. The additional ADA spaces must be designated on the final site plan. Parking space sizes are 9’ x 18’ for 90 degree parking, and handicapped spaces are 12’ x 22’ required by Code.

The Code also requires bicycle parking to be provided for educational facilities, multifamily dwellings, commercial, institutional and industrial uses, as well as all developments adjacent to a bike path, at a rate of one space for every ten parking spaces, per Section 107.48. The bike racks must be shown on the permit application site plan.

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

- City approval is required for ADA compliant parking spaces prior to Building Permit Approval.

- City approval is required for bike racks prior to Building Permit Approval.

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

The proposed project consists of development of a residential use on an existing site that is mostly vacant. The proposed use does not have any adverse effect through noise, glare or odors, therefore the proposed density increase should have a de minimis impact.

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 dumpsters are screened, and located for easy access and waste removal.

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 will provide wastewater and sewage collection and disposal through cooperation with the Utilities Department. This project will constitute a minor expansion, resulting in a de minimis 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 redevelopment will have a de minimis impact on recreation and open space.
- Roadways: The applicant is redeveloping the site with a higher intensity than was contained within the prior development; therefore, 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.

At this juncture, all necessary initial letters of coordination have been received.

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.
- Applicant must obtain all outside agency approvals, this includes but is not limited to SFWMD, FDOT, ACOE, DEP.
- City approval of the connection to the City Wastewater Utility will be required.
- 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;

Table 107.66.1 establishes project boundary buffer standards applicable to the project. The subject parcel is zoned RH and is bordered to the West by properties zoned Mixed Use-Maritime (MU-M) and properties to the north zoned RH as well. The zoning across Coco Plum is Residential Medium (RM). There is a medium project boundary buffer

requirement for portions of the project area adjacent to parcels zoned RH. The final landscape plans must be approved by the City Biologist.

Buffer Type	Minimum Width	Canopy Tree	Understory Tree	Non-Deciduous	Shrub	Screening
M-Medium	15 feet	4	2	2	16	No

Section 107.71 A. requires that all multifamily residential developments provide Type 1 Streetscape buffer along the entire street frontage. The project is adjacent to Coco Plum Road and Avenue D. The final landscape plan must show compliance with the buffer standards. Current site plan graphics exceed the required standard.

Table 103.15.2 outlines setback requirements in the RH district as follow: front yard 10 feet’; side yards 10 feet; and rear setbacks have a 20’ setback from the property line, or Mean High Water Line, or landward extent of the mangrove root system. The Applicant has complied with all setback standards.

Setback	Required	Required Landscape	Proposed	Compliant
Front	10	10	>20	Yes
Side	5	15	>15	Yes
Rear	10	NA	>15	Yes

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

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

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

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

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

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 site is characterized by Exotics and some native hammock species; therefore, a twenty percent open space requirement applies. According to calculations provided by the applicant far 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 the development of affordable housing in an area of the City which is relatively intense in residential and light industrial/marine uses. A redevelopment of the existing residential units 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 42' as measured from the crown of the roadway or unimproved grade. The site plans show that buildings are below 42'.

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. Additionally the project must meet all criteria of Section 104.03 pertaining to affordable housing. These conditions must be met to receive FHFC funds.

The following criteria are applicable to this redevelopment from 104.48:

- 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.

The following criteria are applicable to this proposed development from 104.03:

- 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:
- 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;
- 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;
- 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;
- 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;

- 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;
- 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;
- 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;
- 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
- If the dwelling units utilize affordable housing BPAS allocations, the requirements of Subsection 107.06(c) shall also apply.
- 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.

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

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 redevelopment consists of the replacement increase of an 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:

Planning staff recommends that the Planning Commission forward a recommendation of conditional approval of the Residential Development to the City Council. Planning Commission recommends approval (2-1). The proposed conditions of approval are listed below.

Conditions of Approval

1. 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.
2. City approval is required for ADA compliant parking spaces prior to Building Permit Approval.
3. Bike racks must be shown on the final site plan and approved prior to Building Permit Approval.
4. City approval is required for the stormwater management system prior to Building Permit Approval.
5. Applicant must obtain all outside agency approvals prior permit issuance and prior to project initiation.
6. City approval of the final engineering and connection to the City Wastewater Utility will be required.
7. 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.
8. A Transplantation / Mitigation plan must be approved for any native trees destroyed as part of proposed construction. This Plan must be provided and approved prior to the initiation of site development.
9. If the redevelopment is found to have any effect on the Eastern Indigo Snake, then the prescribed protection measures must be undertaken, and the information poster posted on site.
10. A Final Site Plan must be submitted showing the buildings meeting the required setbacks, parking locations, and access drives.
11. Sufficient parking for two spaces per unit and additional visitor parking.
12. City approval is required for ADA compliant parking spaces prior to Building Permit Approval.
13. City approval is required for bike racks prior to Building Permit Approval.
14. All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
15. Applicant must obtain all outside agency approvals, this includes but is not limited to SFWMD, FDOT, ACOE, and DEP.
16. 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.
17. 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:
18. 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;
19. 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;
20. 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;
21. 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;
22. 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;
23. 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;

24. 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;
25. 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
26. If the dwelling units utilize affordable housing BPAS allocations, the requirements of Subsection 107.06(c) shall also apply.
27. 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.
28. The Applicant must obtain sixty-four (64) affordable residential allocations to be transferred via the Transfer of Building Rights (TBR's), BPAS process, or any other legally established process, including statutory, prior to building permit issuance. THE APPROVAL OF THE REQUESTED CONDITIONAL USE PERMIT DO NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF ANY AFFORDABLE RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT.
29. The Conditional Use Development Order will constitute the Certificate of Concurrence for the project. The determination will be valid for one year.

**CITY OF MARATHON, FLORIDA
RESOLUTION 2022-131**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING A REQUEST BY COCO VISTA COMMUNITY, LTD AND VC SEAVIEW, LTD. 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 SIXTY-FOUR (64) AFFORDABLE HOUSING UNITS LOCATED AT 96 COCO PLUM DR. WHICH IS LEGALLY DESCRIBED AS BLOCK 7 LOT 9 COCO PLUM BEACH PB4-166 FAT DEER KEY, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00363700-000000, BLOCK 7 LOT 11 AND ADJACENT CANAL COCO PLUM BEACH PB4-166 FAT DEER KEY, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00363720-000000 AND BLOCK 7 LOT 10 AND ADJACENT CANAL COCO PLUM BEACH PB4-166 FAT DEER KEY, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00363710-000000. NEAREST MILE MARKER 54.

WHEREAS; COCO VISTA COMMUNITY, LTD. AND VC SEAVIEW, LTD. (The “Applicant”) filed an Application on August 31, 2022 for a Conditional Use Permit pursuant to Chapter 102, Articles 13 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS; previously Resolution 2018-72 was approved by City Council authorizing the conditional use for 64 units; and

WHEREAS; the Applicant has proposed the development of 64 affordable housing units; and

WHEREAS; the Applicant must obtain sixty-four (64) affordable residential allocations to be transferred via the Transfer of Building Rights (TBR’s), BPAS process, or any other legally established process, including statutory, prior to building permit issuance. THE APPROVAL OF THE REQUESTED CONDITIONAL USE PERMIT DO NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF ANY AFFORDABLE RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT.

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 17th day of October 2022, 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 13 of the LDRs; and

WHEREAS; and on the 15th day of November, 2022 the City Council (the “Council”) 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 13 of the LDRs; and

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

WHEREAS; the purpose of the Conditional Use Permit is 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 and on the basis of all zoning, subdivision and other ordinances applicable to the proposed location and zoning district,

WHEREAS; § 166.04151(1), Fla. Stat. (2022) provides “[n]otwithstanding any other provision of law, a municipality may adopt and maintain in effect any law, ordinance, rule, or other measure that is adopted for the purpose of increasing the supply of affordable housing using land use mechanisms such as inclusionary housing or linkage fee ordinances.”

WHEREAS; § 166.04151(5), Fla. Stat. (2022) states that § 166.04151(2), Fla. Stat. (2022) does not apply in an area of critical state concern, indicating by lack of inclusion that § 166.04151(1), Fla. Stat. (2022) does apply in an area of critical state concern.

WHEREAS; the City Council has the authority to approve this Resolution increasing the supply of affordable housing in the City of Marathon.

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 2022-09, a copy of which is attached hereto as Exhibit “A”, granting a Conditional Use Permit to COCO VISTA COMMUNITY, LTD. AND VC SEAVIEW, LTD. 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 approval by the State Department of Economic Opportunity.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON,
FLORIDA, THIS 13TH DAY OF DECEMBER, 2022.**

THE CITY OF MARATHON, FLORIDA

Luis Gonzalez, Mayor

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

Diane Clavier
City Clerk

(City Seal)

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

Steven T. Williams, City Attorney



**CITY OF MARATHON, FLORIDA
CONDITIONAL USE
DEVELOPMENT ORDER # 2022-09**

A DEVELOPMENT ORDER OF CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING A REQUEST BY COCO VISTA COMMUNITY, LTD AND VC SEAVIEW, LTD. 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 SIXTY-FOUR (64) AFFORDABLE HOUSING UNITS LOCATED AT 96 COCO PLUM DR. WHICH IS LEGALLY DESCRIBED AS BLOCK 7 LOT 9 COCO PLUM BEACH PB4-166 FAT DEER KEY, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00363700-000000, BLOCK 7 LOT 11 AND ADJACENT CANAL COCO PLUM BEACH PB4-166 FAT DEER KEY, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00363720-000000 AND BLOCK 7 LOT 10 AND ADJACENT CANAL COCO PLUM BEACH PB4-166 FAT DEER KEY, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00363710-000000. NEAREST MILE MARKER 54.

WHEREAS; COCO VISTA COMMUNITY, LTD. AND VC SEAVIEW, LTD. (The “Applicant”) filed an Application on August 31, 2022 for a Conditional Use Permit pursuant to Chapter 102, Articles 13 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS; previously Resolution 2018-72 was approved by City Council authorizing the conditional use for 64 units; and

WHEREAS; the Applicant has proposed the development of 64 affordable housing units; and

WHEREAS; the Applicant must obtain sixty-four (64) affordable residential allocations to be transferred via the Transfer of Building Rights (TBR’s), BPAS process, or any other legally established process, including statutory, prior to building permit issuance. THE APPROVAL OF THE REQUESTED CONDITIONAL USE PERMIT DO NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF ANY AFFORDABLE RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT.

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 17th day of October 2022, 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 13 of the LDRs; and

WHEREAS; and on the 15th day of November, 2022 the City Council (the “Council”) 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 13 of the LDRs; and

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

WHEREAS; the purpose of the Conditional Use Permit is 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 and on the basis of all zoning, subdivision and other ordinances applicable to the proposed location and zoning district,

WHEREAS; § 166.04151(1), Fla. Stat. (2022) provides “[n]otwithstanding any other provision of law, a municipality may adopt and maintain in effect any law, ordinance, rule, or other measure that is adopted for the purpose of increasing the supply of affordable housing using land use mechanisms such as inclusionary housing or linkage fee ordinances.”

WHEREAS; § 166.04151(5), Fla. Stat. (2022) states that § 166.04151(2), Fla. Stat. (2022) does not apply in an area of critical state concern, indicating by lack of inclusion that § 166.04151(1), Fla. Stat. (2022) does apply in an area of critical state concern.

WHEREAS; the City Council has the authority to approve this Resolution increasing the supply of affordable housing in the City of Marathon.

FINDINGS OF FACT:

1. The applicant will redevelop the project site as set out in the project site plan allowing the Applicant to construct sixty four (64) affordable residential units, to include an office and common areas (See Approved Site Plan – Exhibit A” and all Plans otherwise provided and approved, or approved as revised, as part of the Applicant’s submittal):
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) 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.
- 2) City approval is required for ADA compliant parking spaces prior to Building Permit Approval.
- 3) Bike racks must be shown on the final site plan and approved prior to Building Permit Approval.
- 4) City approval is required for the stormwater management system prior to Building Permit Approval.
- 5) Applicant must obtain all outside agency approvals prior permit issuance and prior to project initiation.
- 6) City approval of the final engineering and connection to the City Wastewater Utility will be required.
- 7) 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.
- 8) A Transplantation / Mitigation plan must be approved for any native trees destroyed as part of proposed construction. This Plan must be provided and approved prior to the initiation of site development.
- 9) If the redevelopment is found to have any effect on the Eastern Indigo Snake, then the prescribed

protection measures must be undertaken, and the information poster posted on site.

- 10) A Final Site Plan must be submitted showing the buildings meeting the required setbacks, parking locations, and access drives.
- 11) Sufficient parking for two spaces per unit and additional visitor parking.
- 12) City approval is required for ADA compliant parking spaces prior to Building Permit Approval.
- 13) City approval is required for bike racks prior to Building Permit Approval.
- 14) All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
- 15) Applicant must obtain all outside agency approvals, this includes but is not limited to SFWMD, FDOT, ACOE, and DEP.
- 16) 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.
- 17) 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:
- 18) 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;
- 19) 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;
- 20) 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;
- 21) 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;
- 22) 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;
- 23) 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;
- 24) 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;
- 25) 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
- 26) If the dwelling units utilize affordable housing BPAS allocations, the requirements of Subsection 107.06(c) shall also apply.
- 27) 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.

- 28) The Applicant must obtain sixty-four (64) affordable residential allocations to be transferred via the Transfer of Building Rights (TBR's), BPAS process, or any other legally established process, including statutory, prior to building permit issuance. THE APPROVAL OF THE REQUESTED CONDITIONAL USE PERMIT DO NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF ANY AFFORDABLE RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT.
- 29) 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 is hereby GRANTED subject to the conditions specified herein.

EFFECTIVE DATE:

This development order shall not take effect for five (5) days following the date it is filed with the City Clerk, and during that time, the conditional use approval granted herein shall be subject to appeal as provided in the City Code. An appeal shall stay the effectiveness of this development order until said appeal is resolved.

Date

Brian Shea
Director of Planning

This Development Order was filed in the Office of the City Clerk of this ____ day of _____, 2022.

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 Economic Opportunity 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, this instrument shall not take effect for forty-five (45) days following the rendition to the Florida Department of Economic Opportunity. 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 Smith Hawks, PL (Bart Smith/AJ Davila), 138 Simonton Street, Key West, FL 33040, this ____ day of _____, 2022.

Diane Clavier City Clerk

EXHIBIT "A"

