

CITY COUNCIL AGENDA STATEMENT



Meeting Date: June 13, 2023
To: Honorable Mayor and City Councilmembers
From: Brian Shea, Planning Director
Through: George Garrett, City Manager

Agenda Item: **Resolution 2023-54**, Authorizing The City Manager To Execute A Release Of Unity Of Title On Behalf Of The City In The Form Attached To This Resolution Concerning Property Described As The Block 50, Lots 1 & 2, Crains Subdivision; And Providing For An Effective Date.

RECOMMENDATION:

Staff recommends that the City Council approve the proposed resolution to dissolve the unity of title recorded in 2013 with the Clerk of Court in the official records Book 2616, Page 1293.

BACKGROUND

In 2013 a unity of title was created joining two adjacent properties in Crains Subdivision. The unity of title was filed to combine the lots due to vehicles and accessory structures being located on the vacant parcel. Permits were submitted years prior for BPAS, and the BPAS allocation has been awarded. The BPAS permit is active, and the accessory structures and vehicles have now been removed from the property.

According to the recorded unity of title, this unity of title may only be modified, amended or released by a written instrument executed by the City Manager following approval by the City Council. All modifications, amendments and release hereto shall be in writing and must be signed by the Owner, or his successors or assigns, and the City Manager.

Purpose of Resolution:

The purpose of the Resolution is to allow the severance of the unity of title. The City of Marathon shall authorize the City Manager to execute a release of the unity of title recorded in Official Records Book 2616, Page 1293 of the Public Records of Monroe County.

**CITY OF MARATHON, FLORIDA
RESOLUTION 2023-54**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AUTHORIZING THE CITY MANAGER TO EXECUTE A RELEASE OF UNITY OF TITLE ON BEHALF OF THE CITY IN THE FORM ATTACHED TO THIS RESOLUTION CONCERNING PROPERTY DESCRIBED AS THE BLOCK 50, LOTS 1 & 2, CRAINS SUBDIVISION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the applicants, Steve James Edlund and Tamara T. Hopkinson. have requested a release of unity of title recorded in 2013 for purposes of unifying a parcel of land to and existing parcel.

WHEREAS, the Unity of Title, recorded in the Official Records of Monroe County, Florida at book 2616, page 1293 states that the Unity of Title may only be released in writing through a written instrument executed by the City Manager after approval by the City Council.

WHEREAS, the City Council heard, reviewed and duly considered the reports, findings and recommendations of staff, and finds that the release of the Unity of Title is in the best interests of the citizens of 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 Manager is hereby authorized on behalf of the City of Marathon to execute a release of Unity of Title recorded in Official Records Book 2616, Page 1293 of the Public Records of Monroe County, Florida, in substantially the same form and format as attached hereto.

Section 3. The City Manager is hereby authorized to do all things necessary and expedient in order to effectuate the release described in Section 2 above. The applicant shall record the releases at its cost and expense.

Section 4. This resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 13TH DAY OF JUNE, 2023.

THE CITY OF MARATHON, FLORIDA

Luis Gonzalez, Mayor

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Diane Clavier, City Clerk

(City Seal)

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

Steven T. Williams, City Attorney

This Instrument Was Prepared By:
Thomas D. Wright, Esquire
Law Offices of Thomas D. Wright, Chartered
P.O. Box 500309
Marathon, FL 33050
Telephone: 305-743-8118
Note: This document was prepared without
examination of title and therefore the preparer
expresses no opinion as to condition of title.

UNITY OF TITLE

WHEREAS, STEVE JAMES EDLUND, a single man and TAMARA T. HOPKINSON, a single woman, the undersigned are the fee simple owners (the "Owners") of the Property described as:

Lots 1 and 2, Block 50, Crains Subdivision, according to the Plat thereof, as recorded in Plat Book 1 at Page 51 of the Public Records of Monroe County, Florida.

Owners recognize and acknowledge that for the public health, welfare, safety or morals, the Property should not be divided into separate parcels owned by the owners and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owners hereby agree to restrict the use of the subject Property in the following manner:

The Property shall be considered as one plot and parcel of land and that no portion of said plot and parcel of land shall be sold, transferred, devised or assigned separately, except in its entirety as one plot or parcel of land.

Owners further agree that this condition, restriction and limitation shall be deemed a covenant running with the land and shall be recorded, at Owners' expense, in the Public Records of Monroe County, Florida, and shall remain in full force and effect and be binding upon the Owners, their heirs, successors, personal representatives and assigns and upon all mortgages or lessees until such time as the same may be released in writing by the Marathon City Council after a public hearing.

CONDITIONS

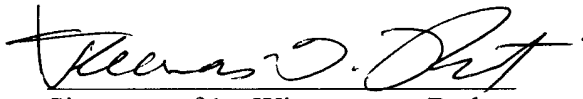
1. **City:** This Unity of Title is intended to benefit and run in favor of the City of Marathon, Florida.
2. **Enforcement:** This Unity of Title may be enforced by the City at law or in equity or as a code compliance action against any party or person violating, or attempting to violate, any of the covenants and restrictions contained herein. The remedies available to the City shall include, but are not limited to, obtaining a court order requiring the Owners or their successors or assigns to compel the Property's continuing compliance with the covenants and restrictions contained herein until the City releases this Unity of Title. The prevailing party in any action or suit pertaining to or arising out of this Declaration shall be entitled to recover, in addition to costs and disbursements allowed by law, reasonable attorneys' fees and costs as well as attorneys' fees and costs incurred in enforcing this prevailing parties attorneys' fees provision. This enforcement provision shall be in addition to any other remedies available at law or in equity.
3. **Authorization for City to Withhold Permits and Inspections.** If the terms of this Unity of Title are not being complied with, in addition to any other remedies available at law or in equity, the City is hereby authorized after notice and an opportunity to cure, to withhold any permits regarding the Property or any portion thereof, and to refuse to make any inspections or grant any approvals for the Property or any portion thereof until such time as the Owner or his/her/its successor or assigns are in compliance with the conditions of this Unity of Title. The determination of non-compliance and to withhold permits, inspections, or approvals shall be by the Director of Planning and shall be subject to the appeal provision of the City's land development regulations.
4. **Modifications, Amendments and Releases.** This Unity of Title may only be modified, amended or released by a written instrument executed by the City Manager following approval by the City Council. All modifications, amendments and releases hereto shall be in writing and must be signed by the Owners, or their successors or assigns, and the City Manager. All amendments hereto shall be recorded in the Public Records of Monroe County, Florida, and shall not be valid until recorded.
5. **Governing Law.** This Unity of Title and the enforcement of the rights and obligations established hereby shall be subject to and governed by the laws of the State of Florida.

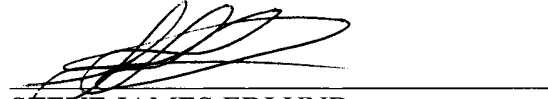
6. **Recordation.** The Owners, at their sole expense, shall record this Unity of Title in the Public Records of Monroe County, Florida, within ten (10) working days after approval of the same by the City.


IN WITNESS WHEREOF, the undersigned has caused this Unity of Title to be executed as of this 7 day of February, 2013.

WITNESS OR ATTEST:

OWNER:


Signature of 1st Witness as to Both
Printed Name: Thomas D. Wright



STEVE JAMES EDLUND

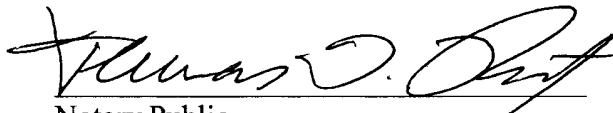

Signature of 2nd Witness as to Both
Print Name: Susan M. Lovley


TAMARA T. HOPKINSON

STATE OF FLORIDA
COUNTY OF MONROE

The foregoing instrument was acknowledged before me this 7 day of February, 2013, by Steve James Edlund and Tamara T. Hopkinson, who are personally known to me or who produced their Florida driver's licenses as identification.

NOTARY PUBLIC STATE OF FLORIDA
 Thomas D. Wright
Commission # EE109052
Expires: JULY 06, 2015
BONDED THRU ATLANTIC BONDING CO., INC.


Notary Public

My commission expires:

THIS UNITY OF TITLE IS ACCEPTED THIS 6 DAY OF FEBRUARY, 2013.

CITY OF MARATHON

By: 
George Garrett, Planning Director

RELEASE OF UNITY OF TITLE

KNOW ALL MEN BY THESE PRESENTS: The undersigned representative of the City of Marathon, a municipal corporation of the State of Florida, releases the UNITY OF TITLE recorded in Official Record Book 2616 at Page 1293 of the Public Records of Monroe County, Florida, relating to and pertaining to the property described in said UNITY OF TITLE being located in the City of Marathon, Monroe County, Florida.

All terms, conditions and provisions contained in the aforementioned UNITY OF TITLE are hereby released and canceled.

SIGNED AND SEALED this _____ day of _____, 2023.

CITY OF MARATHON

George Garrett, City Manager

WITNESSES:

(signature)

(signature)

(printed name)

(printed name)

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

Steven T. Williams, City Attorney

STATE OF FLORIDA
COUNTY OF MONROE

ACKNOWLEDGED before me, a Notary Public, this _____ day of _____, 2023, by _____, [] who is personally known to me or [] who produced _____ as identification.

Signature of Notary Public

Printed name of Notary