

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2022-63**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA OF A REQUEST BY THOMAS FRANCIS-SIBURG 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 AN EXISTING CONVENIENCE STORE PROVIDING FUEL SALES WITH THE ADDITION OF A CAR WASH AT THE PROPERTY LOCATED AT 6203 OVERSEAS HIGHWAY, OCEAN, WHICH IS LEGALLY DESCRIBED AS EDMONDS ACREAGE TRACTS PB2-100 A SUBDIVISION OF PART GOVERNMENT LOT 1 SECTION 11 TOWNSHIP 66S RANGE 32E KEY VACA PART E1/2 TRACT 10, MARATHON, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00338730-000600 & SHERYL SUBDIVISION 2 PLAT BOOK 4-43 KEY VACA LOTS 1-2 AND PART 3-4 BLOCK C, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00339960-000000. NEAREST MILE MARKER 50.**

**WHEREAS**, Thomas Francis-Siburg (The “Applicant”) filed an Application on April 11<sup>th</sup>, 2022, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the City of Marathon Land Development Regulations (LDRs); and

**WHEREAS**, the applicant has requested a conditional use approval for the redevelopment of the subject property to include a car wash to the existing convenience store which is being remodeled; and

**WHEREAS**, the 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 27<sup>th</sup> day June 2022, the City of Marathon Planning Commission (the “Commission”) 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 13 of the LDRs; and

**WHEREAS**, on the 12<sup>th</sup> day July 2022, the City of Marathon 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 13 of the LDRs; and

**WHEREAS**, the City Council decided 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:**

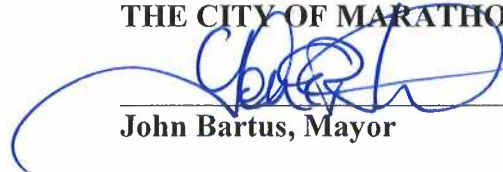
**Section 1.** The above recitals are true and correct and incorporated herein.

**Section 2.** The City Council hereby approves Development Order 22-2, a copy of which is attached hereto as Exhibit "A", granting a Conditional Use Permit to Thomas Francis-Siburg 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 execution.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 12<sup>th</sup> DAY OF JULY 2022.**

**THE CITY OF MARATHON, FLORIDA**



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**John Bartus, Mayor**

AYES: Zieg, Cook, Still, Bartus  
NOES: Gonzalez  
ABSENT: None  
ABSTAIN: None

**ATTEST:**



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Diane Clavier, City Clerk

(City Seal)

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



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Steven Williams, City Attorney

**EXHIBIT "A"**  
**CITY OF MARATHON, FLORIDA**  
**CONDITIONAL USE**  
**DEVELOPMENT ORDER 22-04**

**A DEVELOPMENT ORDER APPROVING A REQUEST BY THOMAS FRANCIS-SIBURG 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 AN EXISTING CONVENIENCE STORE PROVIDING FUEL SALES WITH THE ADDITION OF A CAR WASH AT THE PROPERTY LOCATED AT 6203 OVERSEAS HIGHWAY, OCEAN, WHICH IS LEGALLY DESCRIBED AS EDMONDS ACREAGE TRACTS PB2-100 A SUBDIVISION OF PART GOVERNMENT LOT 1 SECTION 11 TOWNSHIP 66S RANGE 32E KEY VACA PART E1/2 TRACT 10, MARATHON, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00338730-000600 & SHERYL SUBDIVISION 2 PLAT BOOK 4-43 KEY VACA LOTS 1-2 AND PART 3-4 BLOCK C, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00339960-000000. NEAREST MILE MARKER 50.**

**WHEREAS**, Thomas Francis-Siburg (The "Applicant") filed an Application on April 11<sup>th</sup>, 2022, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the City of Marathon Land Development Regulations (LDRs); and

**WHEREAS**, the applicant has requested a conditional use approval for the redevelopment of the subject property to include a car wash to the existing convenience store which is being remodeled; and

**WHEREAS**, the 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 27<sup>th</sup> day June 2022, the City of Marathon Planning Commission (the "Commission") 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 13 of the LDRs; and

**WHEREAS**, on the 12<sup>th</sup> day July 2022, the City of Marathon 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 13 of the LDRs; and

**WHEREAS**, the City Council decided 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

## **FINDINGS OF FACT:**

1. The Applicant has proposed a conditional use approval for redevelopment of the subject property to include a Car Wash to the existing Convenience store which is being remodeled.
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) The applicant will obtain approval of final landscaping and mitigation plans (as needed) and lighting plans in coordination with the City Biologist prior to building permit issuance;
- 2) The applicant will provide fire protection plans in accordance with fire protection requirements as outlined by the City Fire Marshal;
- 3) The applicant will meet all floodplain related requirements as part of the Building Permit process;
- 4) The applicant will obtain City approval of the stormwater management system prior to Building Permit issuance;
- 5) The applicant will obtain City approval for wastewater management through the City's Wastewater Utility;
- 6) The applicant will obtain the required permits to fully enclose and screen the dumpster in accordance with Section 107.39;

- 7) The applicant will obtain sign permits for any signs erected on the property, as required under the Code; and
- 8) The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.
- 9) Complete details for the carwash shall be submitted. The plans shall depict a treatment system to remove grease, grit, sand, and all other impurities prior to connection to the wastewater system.
- 10) A unity of title is required in lieu of the unity of title the applicant can provide cross access easements in a form approved by the City attorney.
- 11) Operational hours to run concurrently with Dion's convenience store and gas station.

**VIOLATION OF CONDITIONS:**

The applicant understands and acknowledges that it must comply with all 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:**

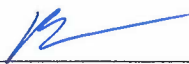
Based upon the above Findings of Fact, the Council does hereby make the following Conclusions of Law:

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.

7/12/22  
Date

  
Brian Shea  
Director of Planning

This Development Order was filed in the Office of the City Clerk of this 27 day of July, 2022.

  
Diane Clavier, City Clerk DEPUTY 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, 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 Economic Opportunity. During those 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 1421 First this 27 day of July, 2022.

Street, Ste 101  
Key West, FL 33040

Hilary Palmer  
Diane Clavier, City Clerk Deputy Clerk