

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2022-113**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA OF A REQUEST BY MARATHON DEVELOPMENT PARTNERS LLC. 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 NINE (9) DUPLEXES ON PROPERTIES LOCATED AT 57578 AND 57468 OVERSEAS HIGHWAY, WHICH ARE LEGALLY DESCRIBED AS BLOCK 58, LOTS 10, 11, 12, 13, 14, AND 15, CRAINS SUBDIVISION, GRASSY KEY, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00374650-000000, 00374660-000000, 00374670-000000, 00374680-000000, 00374690-000000, AND 00374700-000000. NEAREST MILE MARKER 57.5.**

**WHEREAS**, Marathon Development Partners LLC (The “Applicant”) filed an Application on July 29, 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 construction of 18 market rate dwelling units; 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 19<sup>th</sup> day September 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 11<sup>th</sup> day October 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 22-07, a copy of which is attached hereto as Exhibit "A", granting a Conditional Use Permit to Marathon Development Partners 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 execution.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 11<sup>th</sup> DAY OF OCTOBER 2022.**

**THE CITY OF MARATHON, FLORIDA**

  
\_\_\_\_\_  
**John Bartus, Mayor**

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

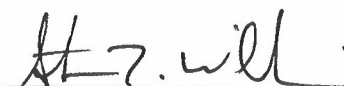
**ATTEST:**

  
\_\_\_\_\_

Diane Clavier, City Clerk

(City Seal)

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

  
\_\_\_\_\_

Steven Williams, City Attorney

**EXHIBIT "A"**  
**CITY OF MARATHON, FLORIDA**  
**CONDITIONAL USE**  
**DEVELOPMENT ORDER 22-07**

**A DEVELOPMENT ORDER APPROVING A REQUEST BY MARATHON DEVELOPMENT PARTNERS LLC. 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 NINE (9) DUPLEXES ON PROPERTIES LOCATED AT 57578 AND 57468 OVERSEAS HIGHWAY, WHICH ARE LEGALLY DESCRIBED AS BLOCK 58, LOTS 10, 11, 12, 13, 14, AND 15, CRAINS SUBDIVISION, GRASSY KEY, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00374650-000000, 00374660-000000, 00374670-000000, 00374680-000000, 00374690-000000, AND 00374700-000000. NEAREST MILE MARKER 57.5.**

**WHEREAS**, Marathon Development Partners LLC (The "Applicant") filed an Application on July 29<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 construction of 18 market rate dwelling units; 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 19<sup>th</sup> day September 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 11<sup>th</sup> day October 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 construction of 18 market rate dwelling units.
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. All conditions of the Fire Marshal must be met prior to permit issuance.
2. A final lighting plan must be submitted prior to permit issuance.
3. Although not suitable for turtle nesting, all lighting requirements for turtle nesting beaches will be required.
4. The final site plan must show that the dumpsters are screened and located for easy access and waste removal.

5. A unity of title is required for the parcels.
6. A Final Landscape Plan must be submitted showing the proper treatments and buffers, including the appropriate treatment types and trees.
7. A Final Site Plan must be submitted showing the buildings meeting the required setbacks, parking locations, and access drives.
8. A conservation easement must be recorded for the wetland portions of the site prior to permit issuance.
9. Staff requires that upon planning review, if the redevelopment is found to have any effect on the Eastern Indigo Snake Habitat, then the prescribed protection measures must be undertaken, and the information poster posted on site.
10. All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
11. Two (2) side yards are required for stacked duplexes.
12. Townhouses are limited to ten (10) dwelling units per row, except for affordable housing.
13. The private yard area for rooftop balcony dwelling is provided by the roof or balconies of the structure.
14. 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.
15. 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 sixty square feet in size.
16. 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.
17. The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year from the effective date;
18. The Applicant must obtain and transfer the housing units more than what the City has recognized as legally established on the property, to be transferred via the Transfer of Building Rights (TBR's), BPAS process, or any other legally established process prior to building permit issuance. THE APPROVAL OF THE REQUESTED CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT AMENDMENTS DO NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF ANY MARKET RATE RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT.
19. To achieve eighteen units a TDR must occur. Without TDR approval only fourteen units can be built on site.
20. Must connect with the existing low-pressure force main.
21. A site-specific exfiltration test will be required for review of the construction plans for the project.
22. The HWT in this area is tidal influenced and is established at elevation 2.0 NAVD. Exfiltration trench calculations shall be adjusted accordingly.
23. Site shall be graded so that all runoff is diverted to the proposed stormwater system.
24. Erosion control measures shall be implemented and maintained during the entire construction period.
25. An FDOT access management permit is required for this project.

### **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 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.

10/14/22

Date



\_\_\_\_\_  
Brian Shea  
Director of Planning

This Development Order was filed in the Office of the City Clerk of this 17 day of Oct, 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 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 \_\_\_\_\_ this 17 day of October, 2022.

David Dehaas  
88975 Overseas Hwy.  
Tavernier, FL 33070

Attn: Admin



\_\_\_\_\_  
Diane Clavier, City Clerk