

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2023-14**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA OF A REQUEST FOR A CONDITIONAL USE PERMIT AND PRELIMINARY PLAT APPROVAL PURSUANT TO CHAPTER 102 ARTICLE 10 AND ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (LDRS) ENTITLED “SUBDIVISION OF LAND/PLATS AND RE-PLATS,” AND “CONDITIONAL USE PERMITS” RESPECTIVELY, FOR A PLAT AND SITE PLAN APPROVAL AS SUBMITTED BY VACA HOMES, LLC. LOCATED AT 11901 OVERSEAS HIGHWAY; WHICH IS LEGALLY DESCRIBED AS PART OF LOT 3 SOUTH OF OVERSEAS HIGHWAY, SECTION 5, TOWNSHIP 66 SOUTH, RANGE 33, FAT DEER KEY, MONROE COUNTY, FLORIDA; HAVING REAL ESTATE NUMBER 00100740-000000, NEAREST MILE MARKER 53.**

**WHEREAS**, Vaca Homes, LLC (The “Applicant”) filed an Application on November 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 development approval of eleven (11) residential units and clubhouse with gym, meeting room and office space; 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 23<sup>rd</sup> day January 2023, 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 and Preliminary Plat pursuant to Chapter 102, Articles 10 & 13 of the LDRs; and

**WHEREAS**, on the 14<sup>th</sup> day February 2023, 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 and Preliminary Plat pursuant to Chapter 102, Articles 10 & 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:**

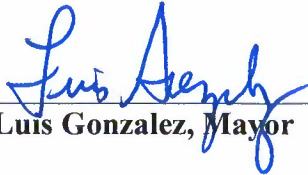
**Section 1.** The above recitals are true and correct and incorporated herein.

**Section 2.** The City Council hereby approves Development Order 23-04, a copy of which is attached hereto as Exhibit "A", granting a Conditional Use Permit to Vaca Homes, 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 14<sup>th</sup> DAY OF FEBRUARY 2023.**

**THE CITY OF MARATHON, FLORIDA**

  
Luis Gonzalez, Mayor

AYES: Still, Landry, Smith, Gonzalez  
NOES: None  
ABSENT: Matlock  
ABSTAIN: None

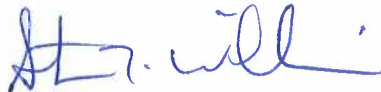
**ATTEST:**

  
Diane Clavier, City Clerk

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 23-04**

**A DEVELOPMENT ORDER APPROVING A REQUEST BY VACA HOMES, 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 ELEVEN (11) RESIDENTIAL UNITS AND CLUBHOUSE WITH GYM, MEETING ROOM AND OFFICE SPACE LOCATED AT 11901 OVERSEAS HIGHWAY; WHICH IS LEGALLY DESCRIBED AS PART OF LOT 3 SOUTH OF OVERSEAS HIGHWAY, SECTION 5, TOWNSHIP 66 SOUTH, RANGE 33, FAT DEER KEY, MONROE COUNTY, FLORIDA; HAVING REAL ESTATE NUMBER 00100740-000000, NEAREST MILE MARKER 53.**

**WHEREAS**, Vaca Homes, LLC (The “Applicant”) filed an Application on November 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 development approval of eleven (11) residential units and clubhouse with gym, meeting room and office space; 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 23<sup>rd</sup> day January 2023, 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 and Preliminary Plat pursuant to Chapter 102, Articles 10 & 13 of the LDRs; and

**WHEREAS**, on the 14<sup>th</sup> day February 2023, 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 and Preliminary Plat pursuant to Chapter 102, Articles 10 & 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 for the development of eleven (11) residential units and clubhouse with gym, meeting room and office space, and;
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) Eight buttonwood trees must be planted on site in addition to the required landscaping by code.
- 3) Applicant must obtain an Access and Drainage Permit from the Florida Department of Transportation, as well as any other permits from the FDOT for the proposed deceleration lane in the FDOT ROW prior to CO.

- 4) The applicant will provide fire protection plans in accordance with fire protection requirements as outlined by the City Fire Marshal; The applicant must submit a final fire safety plan showing that the access road meets the running radius, overhangs, and unobstructed width as noted in NFPA 1 (2012): 18.2.3.4.3.1, 18.2.3.4.1.2, and 18.2.3.4.4 respectively.
- 5) Additional fire hydrant to be installed on site.
- 6) The applicant will meet all floodplain related requirements as part of the Building Permit process;
- 7) The final site plan submitted for permitting must show the required ADA and bicycle spaces.
- 8) The applicant will obtain City approval of the stormwater management system prior to Building Permit issuance;
- 9) The applicant will upgrade sewer main from 4' to 6' sewer main from 122<sup>nd</sup> Street to project site and supply 6' gate valve outside of site within the ROW;
- 10) The applicant will obtain sign permits for any signs erected on the property, as required under the Code; and
- 11) 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.
- 12) A Final Landscape Plan must be submitted showing the proper treatments and buffers, including the appropriate treatment types and trees.
- 13) A final site plan must indicate that the dumpsters are screened and located for easy access and waste removal.
- 14) The applicant will seek additional permits from FDOT for acceleration lane and potential no U-Turn signs at 117<sup>th</sup> Street and US1, and no left turn at 120<sup>th</sup> Street.
- 15) The applicant must obtain any other State or Federal permits and approvals prior to permit issuance.
- 16) The private yard area for rooftop balcony dwelling is provided by the roof or balconies of the structure.
- 17) 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.
- 18) 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.
- 19) 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.
- 20) The Applicant must obtain and transfer eleven (11) market rate housing units, 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 AMENDMENTS DO NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF ANY RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT.**
- 21) The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.
- 22) All construction of required streets and utilities shall be completed pursuant to this Section. Construction Guarantees shall be required pursuant to Sections 102.50 and 102.51 and shall provide that if the construction of the required improvements is not completed within two (2) years after approval of the final plat, the City may deem the applicant to be in default pursuant to Section 102.52 D.
- 23) Height for commercial to be taken from the crown of the road at the access point.

**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.

2/20/23

Date



Brian Shea  
Director of Planning

This Development Order was filed in the Office of the City Clerk of this 21 day of Feb, 2023.



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, please be advised that 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 Vaca Homes this 22 day of FEB., 2023.

12925 SW 132 St. #0A  
Miami, FL 33186

Diane Clavier

Diane Clavier, City Clerk