

**CITY OF MARATHON, FLORIDA
RESOLUTION 2023-66**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING A REQUEST BY MARATHON 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 A CLIMATE CONTROLLED STORAGE FACILITY AND SIXTEEN (16) SINGLE FAMILY RESIDENTIAL UNITS CONSISTING OF FIVE (5) PARCELS LOCATED AT 775 107TH STREET OCEAN; WHICH IS LEGALLY DESCRIBED AS TOWNSHIP 66 RANGE 33 KEY VACCAS PART GOVERNMENT LOT 1 AND PART GOVERNMENT LOT 2 PART PARCEL 3 AND ADJACENT BAY BOTTOM SOUTH OF AND ADJACENT PART GOVERNMENT LOT 1, 796 106TH ST OCEAN; WHICH IS LEGALLY DESCRIBED AS SECTION 6 TOWNSHIP 66 RANGE 33 KEY VACCA PART GOVERNMENT LOT 2 PART PARCEL 3, 797 106TH STREET; WHICH IS LEGALLY DESCRIBED AS SECTION 6 TOWNSHIP 66 RANGE 33 KEY VACA PART GOVERNMENT LOT 2 PARCEL 2, 630 107TH STREET; WHICH IS LEGALLY DESCRIBED AS SECTION 6 TOWNSHIP 66 RANGE 33 KEY VACA PART GOVERNMENT LOT 1, AND VACANT LAND 107TH STREET; WHICH IS LEGALLY DESCRIBED AS SECTION 6 TOWNSHIP 66 RANGE 33 KEY VACCAS PART GOVERNMENT LOT 1, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00104260-000000, 00104430-000300, 00104430-000200, 00104240-000400 AND 00104240-000100. NEAREST MILE MARKER 53.

WHEREAS; Marathon, LLC (The “Applicant”) filed an Application on March 9, 2023 for a Conditional Use Permit pursuant to Chapter 102, Articles 13 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS; the Applicant has proposed to the development of a controlled climate storage building and sixteen (16) single family residential units; and

WHEREAS; the Applicant must obtain seven (7) market rate residential allocations 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 DOES 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 AND DEVELOPMENT AGREEMENT.

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 July 2023, 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 8th day of August, 2023 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,

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 2023-06, a copy of which is attached hereto as Exhibit “A”, granting a Conditional Use Permit to Marathon, 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 approval by the State Department of Economic Opportunity.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 8TH DAY OF AUGUST 2023.

THE CITY OF MARATHON, FLORIDA



Luis Gonzalez, Mayor

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

ATTEST:

Hilary Palmer
for Diane Clavier, City Clerk *Deputy Clerk*



(City Seal)

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

Steve Williams

Steve Williams, City Attorney

**CITY OF MARATHON, FLORIDA
CONDITIONAL USE
DEVELOPMENT ORDER # 2023-06**

CONSIDERATION OF A REQUEST BY MARATHON 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 A CLIMATE CONTROLLED STORAGE FACILITY AND SIXTEEN (16) SINGLE FAMILY RESIDENTIAL UNITS CONSISTING OF FIVE (5) PARCELS LOCATED AT 775 107TH STREET OCEAN; WHICH IS LEGALLY DESCRIBED AS TOWNSHIP 66 RANGE 33 KEY VACCAS PART GOVERNMENT LOT 1 AND PART GOVERNMENT LOT 2 PART PARCEL 3 AND ADJACENT BAY BOTTOM SOUTH OF AND ADJACENT PART GOVERNMENT LOT 1, 796 106TH ST OCEAN; WHICH IS LEGALLY DESCRIBED AS SECTION 6 TOWNSHIP 66 RANGE 33 KEY VACCA PART GOVERNMENT LOT 2 PART PARCEL 3, 797 106TH STREET; WHICH IS LEGALLY DESCRIBED AS SECTION 6 TOWNSHIP 66 RANGE 33 KEY VACA PART GOVERNMENT LOT 2 PARCEL 2, 630 107TH STREET; WHICH IS LEGALLY DESCRIBED AS SECTION 6 TOWNSHIP 66 RANGE 33 KEY VACA PART GOVERNMENT LOT 1, AND VACANT LAND 107TH STREET; WHICH IS LEGALLY DESCRIBED AS SECTION 6 TOWNSHIP 66 RANGE 33 KEY VACCAS PART GOVERNMENT LOT 1, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00104260-000000, 00104430-000300, 00104430-000200, 00104240-000400 AND 00104240-000100. NEAREST MILE MARKER 53.

WHEREAS; Marathon, LLC (The “Applicant”) filed an Application on March 9, 2023 for a Conditional Use Permit pursuant to Chapter 102, Articles 13 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS; the Applicant has proposed to the development of a controlled climate storage building and sixteen (16) single family residential units; and

WHEREAS; the Applicant must obtain seven (7) market rate residential allocations 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 DOES 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 AND DEVELOPMENT AGREEMENT.

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 July 2023, 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 8th day of August, 2023 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,

FINDINGS OF FACT:

1. The applicant will redevelop the project site as set out in the project site plan allowing the Applicant the development of a controlled climate storage building and sixteen (16) single family residential units (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. All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
2. Additional landscape canopy and buffering be placed per site plan.
3. A sewer flow estimate from an engineer will be required to reassess any additional impact.
4. The project exceeds 1 acre of development, and as such an FDEP general permit for NPEDS will be required.
5. Per the LDR, the stormwater criteria require retention of the runoff from a 25yr-72hr storm event. However, in lieu of these criteria, the minimum requirements will be the retention of 1 ½" of runoff for all residential lots and then runoff from 4 ½ inch rainfall event for the roads and commercial lot.
6. All runoff from the site shall be routed to the proposed retention swales. A detailed grading plan shall be required for review of construction plans.
7. Any native vegetation removed must be mitigated per Section 106.10.
8. Since the project is changing use, an FDOT access permit is required.
9. A written agreement or letter must be supplied to the City stating that sewer and other utilities will be provided to 799 106th Street with no loss of service.
10. All conditions of the Fire Marshal must be met prior to permit issuance.
11. All required parking spaces must be shown on the final site plan prior to permit issuance.
12. A final lighting plan including no interior lighting to be on neighboring properties must be submitted prior to permit issuance.

13. A final landscape plan with required buffers as well as additional buffers must be submitted prior to permit issuance.
14. Dumpsters are to be screened per code.
15. A unity of title is required for the properties.
16. 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.
17. The private yard area for rooftop balcony dwelling is provided by the roof or balconies of the structure.
18. 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.
19. 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.
20. 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.
21. The Applicant must obtain and transfer seven (7) 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.
22. The Conditional Use Development Order will constitute the Certificate of Concurrence for the project. The determination will be valid for one year.
23. 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.
24. Individual storage areas shall not exceed 400 square feet each.
25. Storage of boats, recreational vehicles and similar equipment may be allowed, subject to the following standards:
26. Storage shall occur only within a designated area, approved as part of the site plan.
27. Storage areas shall not exceed 50 percent of the lot area of the site.
28. Boats shall be stored on trailers with wheels.
29. Storage areas shall be completely screened from public rights-of-way or adjacent residential zoning districts, utilizing either the buildings associated with the storage facility or by an opaque masonry wall, or equivalent approved by the Director, a minimum of six (6) feet in height.
30. Applicant must provide interior site signage to direct traffic appropriately.
31. Traffic calming measures such as a speed bump to be installed to go with directional signage.
32. Boat Ramp, meeting all conditions of section 104.07, must be on eastern side of the canal end.

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.

8/9/23
Date



Brian Shea
Director of Planning

This Development Order was filed in the Office of the City Clerk of this 10 day of Aug, 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, 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 Marathon LLC, 108 Old House Point Circle, Yorktown, VA, 23692, this 10 day of Aug., 2023.



Diane Clavier City Clerk

EXHIBIT "A": Site Plan

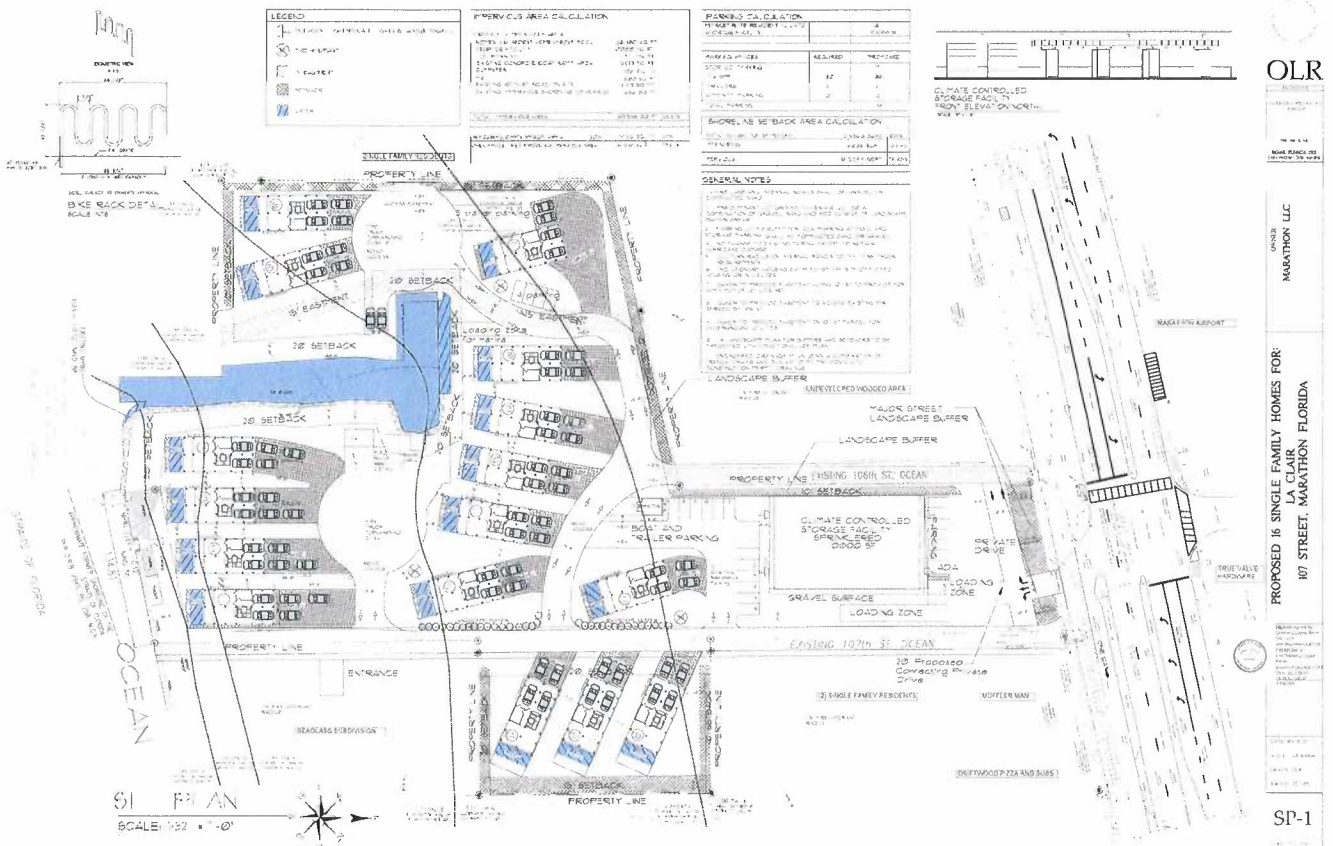


Exhibit "B": Elevation Plan

WATERPROOFING OF OBSERVATION DECK IS ON SITE BY OTHER, ALL RAILING POSTS AND PICKETS ON SITE BY OTHERS

2x8 RAKE BOARD ONLY ON OBSERVATION DECK SIDE

ROOF

2ND FLOOR

1ST FLOOR

FRONT ELEVATION

ACCESS TO GRAB BY SITE CONTRACTOR
SITE CONTRACTOR IS RESPONSIBLE FOR DESIGN AND INSTALLATION OF FOUNDATION
AS NOTED ON COVER PAGE. STAIRS AND LADDERS TO BE PROVIDED ON-SITE BY OTHERS. SUBJECT TO LOCAL APPROVAL.

REVISIONS

NO.	DATE	DESCRIPTION

TITLE

ELEVATION

DATE 11/3/22 DRAWN RWS

SHEET BL-ELEV

11/3/2022 4:49:11 PM

BLACK LINES ARE FOR THE DESIGN AND PRICING PROCESS ONLY AND NOT TO BE USED FOR CONSTRUCTION OR PERMITTING MATTERS.

JOB NUMBER
MT18164 /
ABS - 2563

AFFINITY
BUILDING SYSTEMS, LLC
RICHMOND, VA 23260-3412

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