



CITY COUNCIL AGENDA STATEMENT

Meeting Date: September 21, 2023

To: Honorable Mayor and Council Members

From: Steven Williams, City Attorney

Agenda Item: **Resolution 2023-96**, Declaring The Intention Of The City to Consider Adoption Of An Ordinance Amending the City's Land Development Regulations Relating to Chapter 102, Article 13, Conditional Use Permits, Section 102.74 "Application Process," Chapter 103, Article 3, Table 103.15.1, "Uses By Zoning District," Chapter 104, Article 1, Section 104.51.1 Titled "Single-Family Dwellings (7 Bedrooms or More)," And Chapter 110, Article 3; Declaring Zoning In Progress For A Period of Three Hundred And Sixty-Five Days Or Until The Adoption Of An Ordinance, Whichever Shall Occur First; Directing The Planning Department To Study And Recommend Amendments To The City's Land Development Regulations Related to Large Single Family Home Residential Developments; Providing For Public Notice Of Zoning In Progress And Required Compliance; Providing That From The Date Of Adoption Of This Resolution And During The Pendency Of Consideration Of Such Ordinance By The City, The City Will Not Process Or Approve Development Applications Related To Large Single Family Home Residential Developments; Providing For Severability; And Providing For An Effective Date.

BACKGROUND & JUSTIFICATION:

In light of a recent discussion on large single family home residential developments, the City Council, at its September 12, 2023 meeting, directed staff to exam, study and develop proposed revisions to the City's Land Development Regulations ("LDRs"), with respect to the provisions on large single family home residential developments.

As such, this resolution invokes the legal doctrine known as "Zoning in Progress," pursuant to Ordinance 2014-21 and Chapter 100.04 A.3. "Zoning in Progress" of the City of Marathon's Land Development Regulations. The zoning in progress allows for the temporary deferment of processing development applications and issuance of development approval for new residential development or substantial redevelopment of large single family home residential developments (7 bedrooms or more) within the City of Marathon for 365 days or until the adoption of an Ordinance with regard to same.

CONSISTENCY CHECKLIST:

	Yes	No
1. Comprehensive Plan	<u> X </u>	<u> </u>
2. Other –Sewer Mandate	<u> </u>	<u> X </u>

FISCAL NOTE: N/A

RECOMMENDATION:

Approval of Resolution

**CITY OF MARATHON, FLORIDA
RESOLUTION 2023-96**

A RESOLUTION OF THE CITY OF MARATHON, FLORIDA, DECLARING THE INTENTION OF THE CITY TO CONSIDER ADOPTION OF AN ORDINANCE AMENDING THE CITY’S LAND DEVELOPMENT REGULATIONS RELATING TO CHAPTER 102, ARTICLE 13, CONDITIONAL USE PERMITS, SECTION 102.74 “APPLICATION PROCESS,” CHAPTER 103, ARTICLE 3, TABLE 103.15.1, “USES BY ZONING DISTRICT,” CHAPTER 104, ARTICLE 1, SECTION 104.51.1 TITLED “SINGLE-FAMILY DWELLINGS (7 BEDROOMS OR MORE),” AND CHAPTER 110, ARTICLE 3; DECLARING ZONING IN PROGRESS FOR A PERIOD OF THREE HUNDRED AND SIXTY-FIVE DAYS OR UNTIL THE ADOPTION OF AN ORDINANCE, WHICHEVER SHALL OCCUR FIRST; DIRECTING THE PLANNING DEPARTMENT TO STUDY AND RECOMMEND AMENDMENTS TO THE CITY’S LAND DEVELOPMENT REGULATIONS RELATED TO LARGE SINGLE FAMILY HOME RESIDENTIAL DEVELOPMENTS; PROVIDING FOR PUBLIC NOTICE OF ZONING IN PROGRESS AND REQUIRED COMPLIANCE; PROVIDING THAT FROM THE DATE OF ADOPTION OF THIS RESOLUTION AND DURING THE PENDENCY OF CONSIDERATION OF SUCH ORDINANCE BY THE CITY, THE CITY WILL NOT PROCESS OR APPROVE DEVELOPMENT APPLICATIONS RELATED TO LARGE SINGLE FAMILY HOME RESIDENTIAL DEVELOPMENTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, it is the desire of the City Council that the City of Marathon examine its Land Development Regulations (“LDRs”) with regard to large single family home residential developments; and

WHEREAS, Ordinance 2019-14 was passed on January 14, 2020, amending provisions of the LDRs pertaining to proposed large single family home residential developments; and

WHEREAS, City Staff anticipates that the City’s LDRs can be examined, studied, revised, and brought before the City Council for recommendation and brought before City Council for action and adoption, in the form of one of more proposed ordinances, within a period of three hundred sixty-five (365) days; and

WHEREAS, it is the intent of the City Council to invoke the legal doctrine in Florida known as “Zoning in Progress” with respect to proposed large single family home residential developments; and

WHEREAS, the City Council, at its September 12, 2023 meeting, directed staff to develop proposed revisions to the City’s LDRs, with regard to proposed large single family home residential developments; and

WHEREAS, the City Council wishes to definitively place all parties on notice that it is considering amending the LDRs and that all parties who are considering new or redevelopment of large single family home residential properties (7 bedrooms or more) in the City that the processing of such development applications is temporarily deferred.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are true, correct, and incorporated herein by this reference.

Section 2. Declaration of Intent. The City Council of the City of Marathon hereby declares its intention to consider adoption of an ordinance amending the City's Land Development Regulations relating to proposed large single family home residential developments within the City of Marathon.

Section 3. Notice. Pursuant to the legislation doctrine set forth in Smith v. City of Clearwater, 383 So.2d 681 (Fla. 2d DCA 1980) and City Ordinance 2014-21, all persons and entities that plan to develop property within the City of Marathon shall be deemed to be on notice that:

a) The City is considering the amendment of the regulations relating to proposed large single family home residential developments (7 bedrooms or more);

b) The regulations are considered pending or "zoning in progress" pursuant to Ordinance 2014-21 and Chapter 100.04 A. 3. "Zoning in Progress;" and

c) Any reliance upon current regulations or expenditure of funds or efforts in reliance on current regulations, until the regulations are considered by the Planning Commission and the City Council and adopted and effective, or determined that they will not be adopted, is not reasonable and is at the risk of the applicant.

Section 4. Basis for Zoning in Progress. The Marathon City Council finds that the large single family home residential developments (7 bedrooms or more) regulations of the City of Marathon identified in the City of Marathon's Land Development Regulations in Chapter 102, Article 13, Section 102.74; Chapter 103, Article 3, Table 103.15.1; Chapter 104, Article 1, Section 104.51.1; and Chapter 110, Article 3 require examination, study and revision in order to protect it's existing neighborhoods from a potential influx of oversized houses in excess of seven (7) bedrooms that dramatically change the character of a neighborhood and significantly impact the infracture needs of any given street within the City of Marathon.

Section 5. Processing of Development Applications.

a) City staff shall defer the processing of development applications and the issuance of development approvals for all proposed new development as follows: new residential or substantial redevelopment of large single family home residential developments (7 bedrooms or more) within the City of Marathon.

b) Such deferral in processing development applications is temporary and shall automatically dissolve upon the passage of three hundred sixty-five (365) days from the effective date of this resolution, or until new LDRs or amended LDRs are adopted by the City Council, whichever occurs first. Dependent on the progress of the efforts of the Planning Commission, and staff toward the purposes described herein, the City Council may adopt by public hearing one (1) additional one hundred eighty (180) extension of this Resolution at its discretion.

Section 6. Publication. The City Clerk is hereby directed to publish a Notice of Intention to consider adoption of an ordinance in a newspaper of general circulation in the City

Section 7. Severability. The provisions of this resolution are declared to be severable, and if any sentence, section, clause or phrase of this resolution shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sentences, sections, clauses or phrases of the resolution , but they shall remain in effect it being the legislative intent that this resolution shall stand notwithstanding the invalidity of any part.

Section 8. Effective Date. This resolution shall take effect immediately upon adoption.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA,
THIS 21st DAY OF SEPTEMBER 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 LEGALITY FOR THE USE AND RELIANCE OF THE CITY OF
MARATHON, FLORIDA ONLY:**

Steve Williams, City Attorney