

**CITY OF MARATHON, FLORIDA
RESOLUTION NO. 2008-65**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE REQUEST BY PALM VILLAGE LLC FOR A CONDITIONAL USE PERMIT AND DEVELOPMENT ORDER, PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS ENTITLED "CONDITIONAL USE PERMITS", AUTHORIZING THE CONSTRUCTION OF 40 DEED RESTRICTED AFFORDABLE HOUSING UNITS FOR PROPERTY LOCATED ON OVERSEAS HIGHWAY AND 104TH ST., MILE MARKER 52.5, WHICH IS LEGALLY DESCRIBED AS LOT 1 LA PALMA OF THE FLORIDA KEYS PB7-77 RE NO. 00104441-000100, PROVIDING FOR CONDITIONS OF APPROVAL, PROVIDING FOR A REQUIRED APPEAL PERIOD, PROVIDING FOR RENDITION TO THE STATE LAND PLANNING AGENCY, AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Palm Village, LLC project proposal was reviewed at the Technical Review Committee on January 29, 2008, by the Planning Commission on March 17, 2008, and by the Marathon City Council on April 8, 2008 during properly advertised public hearings for approval of a Conditional Use Permit pursuant to Chapter 102, Article 13 of the City of Marathon Land Development Regulations; and

WHEREAS, the purpose of the Conditional Use Permit is to allow the Applicant to develop a 40 unit, deed restricted, affordable housing project (the "Proposed Use") at the Property under the City's "Residential High" land use district;

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

Section 1. The above recital is true and correct and is incorporated herein by reference; and

Section 2. The City Council of the City of Marathon hereby approves Development Order Number 2008-03, a copy of which is attached hereto as Exhibit "A", granting a Conditional Use Permit to the Applicant, Palm Village LLC, for the Proposed Use. The Senior Planner is authorized to sign the Development Order on behalf of the City; and

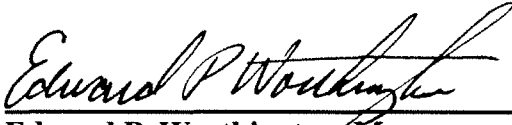
Section 3. This City Council Resolution is subject to all applicable appeal periods pursuant to Chapter 102, Article 17, City of Marathon Land Development Regulations; and

Section 4. This Resolution shall be rendered to the State Land Planning Agency as required pursuant to Rule 9J-1.002(3) F.A.C.; and

Section 5. This resolution shall take effect upon provision of necessary approvals by the State Land Planning Agency.

PASSED AND ADOPTED by the City Council of the City of Marathon, Florida, this 29th day of April, 2008.


THE CITY OF MARATHON, FLORIDA



Edward P. Worthington, Mayor

AYES: Bull, Cinque, Tempest, Vasil, Worthington
NOES: None
ABSENT: None
ABSTAIN: None

ATTEST:

BY: 

City Clerk

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



City Attorney

EXHIBIT "A"



**CONDITIONAL USE
DEVELOPMENT ORDER NO. 2008-03**

A DEVELOPMENT ORDER APPROVING A MINOR CONDITIONAL USE PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (CODE) ENTITLED "CONDITIONAL USES" FOR THE DEVELOPMENT OF A 40 UNIT, DEED RESTRICTED, AFFORDABLE HOUSING APARTMENT COMPLEX, LOCATED ON OVERSEAS HIGHWAY AT APPROXIMATELY 104ST STREET, OCEAN AND US HIGHWAY 1, AND WHICH IS LEGALLY DESCRIBED AS LOT 1 LA PALMA OF THE FLORIDA KEYS PB7-77 RE NO. 00104441-000100

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WHEREAS, The City of Marathon, as the owner of the subject property, obtained a small-scale amendment to the Future Land Use Map of the Comprehensive Plan to allow development of site as high density affordable housing; and

WHEREAS, the amendment required restriction of development to affordable housing as defined by the City's Comprehensive Plan and Land Development Regulations (per Resolution 2006-174); and

WHEREAS, the City issued a Request for Proposals in 2007 for a forty unit affordable housing development and the successful responder was Palm Village LLC. A 99-year lease was approved by the City Resolution 2007-183; and

WHEREAS, the City's Land Development Regulations require a Conditional Use approval for multi-family homes greater than five units, therefore, this approval is required to enable the proposed development; and

WHEREAS, the Conditional Use Approval is intended to allow for the integration of certain land uses and structures within the City Marathon based on conditions imposed by the Planning Commission; and

WHEREAS, review is based primarily on compatibility of the use with its proposed location and with surrounding land uses. Conditional uses shall not be allowed where the conditional use would create a nuisance, traffic congestion, a threat to the public health, safety or welfare of the community; and

WHEREAS, the criteria for evaluating a Conditional Use Approval are outlined in Chapter 102, Article 13, Conditional Use Permits, in the City of Marathon Land Development Regulations.

WHEREAS, in addition, City of Marathon Resolution 2006-014 requires development and redevelopment of five units or more to provide affordable housing. Since the entire development is affordable housing, the requirements of the Resolution are met by the development.

WHEREAS, the proposed project consists of a 40-unit affordable housing project with site parks and amenities; and

WHEREAS, the project will comply with applicable City regulations and will provide buffering, landscaping and open space which is consistent with the Comprehensive Plan and Land Development Regulations; and

WHEREAS, the project is compatible with surrounding uses, and is not expected to create a nuisance, traffic congestion or threat to public, health, safety or welfare; and

WHEREAS, the Palm Village, LLC was reviewed at the Technical Review Committee on January 29, 2008 which Committee recommended approval of the project with conditions; and

WHEREAS, the Palm Village, LLC project was reviewed by the Planning Commission on March 17, 2008 which Committee accepted the recommendation for approval with conditions from the Technical Review Committee and recommended that the project be brought forward to the City Council at the earliest possible meeting pursuant to requirements set out in Chapter 102, Article 13;

FINDINGS OF FACT:

1. In accordance with Chapter 102, Article 13 of the Code, the Commission and Council considered and determined the Applicants 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
 10. Any special requirements set forth in the LDRs for the particular use involved.

CONDITIONS IMPOSED:

Granting approval of the Conditional Use is subject to the following conditions:

1. The applicant will provide one handicap parking spaces meeting ADA requirements as part of building plan submittal;
2. The applicant will obtain approval of final landscaping plans including a fencing plan, mitigation plans (as needed) and a lighting plan in coordination with the City Biologist prior to building permit issuance;
3. The applicant will provide fire protection plans in accordance with fire protection requirements, including improvements to the water supply system, prior to building permit issuance;
4. The applicant will meet all floodplain related requirements as part of the Building Permit process;

5. The applicant will provide an onsite wastewater collection system and connect to the City's Little Venice Wastewater Treatment facility;
6. The applicant will obtain City approval of the stormwater management system prior to Building Permit Approval.
7. The applicant will show garbage and recycling container locations and associated screening on building plans;
8. The applicant will obtain sign permits for any signs erected on the property, as required under the Code; and,
9. The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.

VIOLATION OF CONDITIONS:

The Applicants understand and acknowledge that they 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 Applicants or their successor or designee is in non-compliance with this Development Order 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;
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; and
 - (c) Supported its decision by substantial competent evidence of record; and
3. The Application for an amendment to a major conditional use is hereby GRANTED subject to the conditions contained herein.

RECORDING:

The Applicants shall at their sole cost and expense, record a certified copy of this Development Order in the Public Records of Monroe County, Florida within five (5) days of receipt of same from the City. The Applicants shall provide the City with proof of the recording of the Development Order in accordance with the provisions of this paragraph.

EFFECTIVE DATE:

The Senior Planner shall sign this Development Order, and it shall not take effect for seventy-five (75) days following the date it is rendered/filed with the City Clerk. During that time, the major conditional use approval granted herein shall be subject to appeal as provided in the City Code and pursuant to 9J-1, Florida Administrative Code. An appeal shall stay the effectiveness of this Development Order until said appeal is resolved.

5/1/08
Date

George Garrett
George Garrett
Senior Planner

This Development Order was filed in the Office of the City Clerk of this 15th day of May, 2008.

Diane Clavier
Diane Clavier, City Clerk

NOTICE

Under the authority of Chapter 102, Article 13, Section 102.79 C. of the City of Marathon Land Development Regulations, this Development Order shall expire unless a building permit has been issued for the project within one (1) year of the date of the Conditional Use Approval. Such Approval date shall be considered as the first day after the sequential appeal periods of both the City and the state Department of Community Affairs have ended.

As such, rendition of this Development Order to the Florida Department of Community Affairs shall not occur until after the Administrative Appeal period provided under Chapter 102, Article 17, Section 102.92 of the City Land Development Regulations has expired thirty (30) days. Rendition to the Florida Department of Community Affairs shall then occur, pursuant to Chapter 9J-1, Florida Administrative Code. This instrument should then take effect forty-five (45) days following the rendition to the Florida Department of Community Affairs. However, during the forty-five days, the Florida Department of Community Affairs 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.

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MONROE COUNTY
OFFICIAL RECORDS