

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2008-83**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING AN AMENDMENT TO A MINOR CONDITIONAL USE PURSUANT TO SECTION 9.5-69 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (CODE) ENTITLED "MINOR CONDITIONAL USES" FOR THE DEVELOPMENT OF A 84 UNIT AFFORDABLE HOUSING APARTMENT COMPLEX, LOCATED ON OVERSEAS HIGHWAY AT APPROXIMATELY 71<sup>ST</sup> STREET, OCEAN AND FURTHER DESCRIBED AS SECTION 11, TOWN 66, RANGE 32 KEY VACA PART GOVT LOT 1, MARATHON SHORES, TRACT 1 EDMONDS ACREAGE TRACT, MONROE COUNTY, FLORIDA, HAVING A REAL ESTATE NUMBER OF 00103560-000200, 00103560-000201 AND 00103560-000203**

**WHEREAS**, on April 21, 2008, the City of Marathon Planning Commission and on May 13, 2008, the City of Marathon City Council, conducted properly advertised public hearings regarding the request submitted by Falcon Pass Ltd. and The Carlisle Group. (the "Applicant"), for approval of a Minor Conditional Use permit pursuant to Sections 9.5-65 of the City Code (the "Code"); and

**WHEREAS**, the purpose of the Amendment to a Minor Conditional Use Permit is to allow the Applicant to develop an 84 unit multifamily affordable housing project (the "Proposed Use") at the Property under the City's Urban Residential land use 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 Number 2008-04, a copy of which is attached hereto as Exhibit "A", granting an Amendment to a Minor Conditional Use Permit to the Applicant for the Proposed Use. 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 its adoption.


**PASSED AND APPROVED** by the City Council of the City of Marathon, Florida, this 27<sup>th</sup> day of May 2008.

**THE CITY OF MARATHON, FLORIDA**

  
**Edward P. Worthington, Mayor**


AYES: Bull, Cinque, Tempest, Vasil, Worthington  
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:**

  
\_\_\_\_\_  
City Attorney



**CITY OF MARATHON, FLORIDA  
MINOR CONDITIONAL USE  
DEVELOPMENT ORDER # 2008-04**

**A DEVELOPMENT ORDER APPROVING AN AMENDMENT TO A MINOR CONDITIONAL USE PURSUANT TO SECTION 9.5-69 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (CODE) ENTITLED "MINOR CONDITIONAL USES" FOR THE DEVELOPMENT OF A 84 UNIT AFFORDABLE HOUSING APARTMENT COMPLEX, LOCATED ON OVERSEAS HIGHWAY AT APPROXIMATELY 71<sup>ST</sup> STREET, OCEAN AND FURTHER DESCRIBED AS SECTION 11, TOWN 66, RANGE 32 KEY VACA PART GOVT LOT 1, MARATHON SHORES, TRACT 1 EDMONDS ACREAGE TRACT, MONROE COUNTY, FLORIDA, HAVING A REAL ESTATE NUMBER OF 00103560-000200, 00103560-000201 AND 00103560-000203**

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**WHEREAS**, Falcon Pass Ltd. and The Carlisle Group (the "Applicant") applied for a Minor Conditional Use approval to develop an 84-unit multifamily affordable housing project, known as Seagrape Apartments, on property which is located in the Urban Residential land use district (the "Application"); and

**WHEREAS**, the City of Marathon Planning Commission (the "Commission"), in accordance with the provisions of Sections 9.5-22 and 9.5-65 of the City of Marathon Land Development Regulations (the "LDR's"), met to review the Application to determine its compliance with the applicable regulations on April 22, 2008; and

**WHEREAS**, the Commission forwarded the Application with a recommendation of denial to the City of Marathon City Council (the "Council"); and

**WHEREAS**, the Council, in accordance with the provisions of Sections 9.5-21 and 9.5-65 of the LDR's, met to review the Application to determine its compliance with the applicable regulations on May 13, 2008; and

**WHEREAS**, the Council has duly considered the recommendation of the Commission, and the information and documentary evidence submitted by the Applicant and does hereby find and determine as provided below.

**FINDINGS OF FACT:**

1. In accordance with Section 9.5-65 of the Code, the Commission and Council considered and determined the Applicants met the following criteria:
  - a. The Proposed Use is consistent with goals, objectives and policies of the City Comprehensive Plan (the "Plan") and Chapter 9.5 of the Code;
  - b. The Proposed Use is consistent with the character of the immediate vicinity of the parcel proposed for development;
  - c. The design of the Proposed Use minimizes adverse effects, including visual impacts, of the proposed use on adjacent properties;
  - d. The Proposed Use will not have an adverse effect on the value of surrounding properties;
  - e. The public facilities and services, including but not limited to roadways, park facilities, police and fire protection, hospital and medical services, hurricane shelter, drainage systems, refuse disposal, water and sewers, and schools are adequate; and
  - f. The Proposed Use complies with all additional standards imposed on it by the particular provisions of Chapter 9.5 of the Code, authorizing such use and by all other applicable requirements of the Code.

**CONDITIONS IMPOSED:**

*Granting approval of the Amendment Application is subject to the following conditions:*

1. Timely completion goals of the project as measured from the final approval of this Minor Conditional Use Application (including exhaustion of DCA appeal periods) as follows:
  - Phase I: Permits for building construction will be obtained within three months of the approval of the Minor Conditional Use Application. Completion of construction will occur within eighteen months of obtaining permits. City staff will complete a progress review within twelve months after the date permits are obtained.
  - Phase II: Permits for building construction will be obtained within six months of the approval of the Minor Conditional Use Application. Completion of construction will occur within fifteen months of obtaining permits. City staff will complete a review nine months after the date permits are obtained.
2. Compliance with Land Development Regulations and Comprehensive Plan requirements prior to initiation of construction, to wit:
  - a. Applicant agrees to continue to work with FDOT and the City to develop a better access configuration
  - b. The applicant will provide wastewater treatment for the project either by connecting to City facilities, or if capacity is not available concurrent with project impacts, by constructing a wastewater treatment plant to 2010 standards. Specifically, Seagrape Apartments must provide the necessary information for the required lift station which facilitates connection to the Little Venice Treatment Plant.
  - c. A final landscape plan specifying transplantation or mitigation will be provided and approved by the City Biologist prior to project construction.
  - d. The fire chief will review the final plan to ensure that all fire requirements are met, including the installation of fire hydrants as per the fire chief's recommendations.

3. 84 Affordable ROGO Housing allocations have been awarded to the project through Resolution 2003-138. The units shall be used for rental housing only and the applicant shall record a restrictive covenant prior to the issuance of any building permits for the project. The restrictive covenant shall be for a minimum of fifty (50) years and shall be renewable for two (2) fifty (50) year periods. The developer will enter into an agreement with the Middle Keys Community Land Trust or other similar organization to provide services for both the initial and annual income qualifications of tenants of the affordable housing. This agreement shall be in place and approved by the City prior to the issuance of a CO for the affordable housing units.
4. The applicant must combine all three project parcels in a unity of title or covenant in lieu of a unity of title, dependent on final ownership agreements for the land with Monroe County.

### **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 Director of Planning shall sign this Development Order, and it shall not take effect for thirty (30) 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. An appeal shall stay the effectiveness of this Development Order until said appeal is resolved.

28 May 2008  
Date

George Garrett  
George Garrett  
Acting Planning Director

This Development Order was filed in the Office of the City Clerk of this 28 day of May, 2008.

Diane Clavier  
Diane Clavier, City Clerk

**NOTICE**

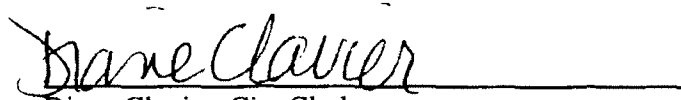
Section 9.5-72 (a) of Marathon City Code states that a conditional use permit shall not be transferred to a successive owner without notification to the Development Review Coordinator within five (5) days of the transfer.

Under the authority of Section 9.5-72(a) 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 complete building permit for site preparation and building construction with revised plans for Phase I as required herein is obtained from the City of Marathon Building Official within six (6) months of the expiration of the Department of Community Affairs appeal period or the date when the Department of Community Affairs waives its appeal and all required certificates of occupancy are procured within eighteen (18) months of building permit issuance; and, unless a complete building permit for site preparation and building construction with revised plans for Phase II as required herein is obtained from the City of Marathon Building Official within twelve (12) months of the expiration of the Department of Community Affairs appeal period or the date when the Department of Community Affairs waives its appeal and all required certificates of occupancy are procured with fifteen (15) months of building permit issuance.

In addition, please be advised that pursuant to Chapter 9J-1, Florida Administrative Code, this instrument shall not take effect for forty-five (45) days following the rendition to the Florida Department of Community Affairs. During those 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.

**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 Falcon Pass Ltd. 2950 SW 27<sup>th</sup> Avenue, suite 200, Coconut Grove, Florida 33133, this 29 day of May, 2008.

  
Diane Clavier, City Clerk

Doc# 1704940  
Bk# 2372 Pg# 2312

MONROE COUNTY  
OFFICIAL PUBLIC RECORD