

**CITY OF MARATHON, FLORIDA
RESOLUTION 2011-23**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING WITH CONDITIONS THE REQUEST BY MARATHON PETROLEUM, LLC FOR A CONDITIONAL USE PERMIT, PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (CODE) ENTITLED "CONDITIONAL USE PERMITS", AUTHORIZING THE DEVELOPMENT OF A DRIVE-THROUGH CONVENIENCE STORE PROVIDING FUEL SALES AT PROPERTY LOCATED AT 7301 OVERSEAS HIGHWAY, OCEAN, NEAREST MILE MARKER 51, WHICH IS LEGALLY DESCRIBED AS FIELDS SUBDIVISION, KEY VACA, LOT 1, LOT 2 & LOT 3, SECTION 1, TOWNSHIP 66, RANGE 32, AND TROPICANA SUBDIVISION, BLOCK B LOT 1, LOT 2, & LOT 3 SECTION 1, TOWNSHIP 66, RANGE 32, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00342240-000000, 00342240-000100, 00342240-000200, 342730-000000, 00342740-000000, & 00342750-000000

WHEREAS, the purpose of the conditional use process is to provide the general public and the neighboring community with the opportunity to review and comment on proposed development which may have potential impacts beyond the limits of the project boundaries; and

WHEREAS, on the 21st day of March, 2011, the City of Marathon (the "City") Planning Commission (the "Commission") and on the 29th day of March, 2011, the City Council (the "Council") conducted properly advertised public hearings (the "Public Hearings") regarding the request submitted by Marathon Petroleum, LLC (the "Applicant"), for a conditional use permit pursuant to Chapter 102, Article 13 of the City Code (the "Code"); and

WHEREAS, review and approval of the proposed project with conditions imposed is consistent with the City of Marathon Comprehensive Plan and Land Development Regulations.

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 Conditional Use Development Order attached hereto as Exhibit "A" authorizing the development of a 3,800 square foot convenience store with drive through and approximately 4,080 square feet of area for six (6) fuel pumps, is hereby approved.

Section 3. Approval of the final site plan shall be by separate Resolution of the City Council and shall be required before the issuance of any building permit.

Section 4. This resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 12th DAY OF APRIL, 2011.

THE CITY OF MARATHON, FLORIDA



Ginger Snead, Mayor

AYES: Ramsay, Worthington, Snead
NOES: Cinque, Keating
ABSENT: None
ABSTAIN: None

ATTEST:



Diane Clavier, City Clerk

(City Seal)

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



City Attorney



**CITY OF MARATHON, FLORIDA
CONDITIONAL USE
DEVELOPMENT ORDER # 2011-001**

A DEVELOPMENT ORDER APPROVING THE CONDITIONAL USE APPLICATION SUBMITTED BY MARATHON PETROLEUM, LLC FOR A CONDITIONAL USE PERMIT, PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (CODE) ENTITLED “CONDITIONAL USE PERMITS”, AUTHORIZING THE DEVELOPMENT OF A CONVENIENCE STORE PROVIDING FUEL SERVICE AT THE PROPERTY LOCATED AT 7301 OVERSEAS HIGHWAY, OCEAN, NEAREST MILE MARKER 51, WHICH IS LEGALLY DESCRIBED AS FIELDS SUBDIVISION, KEY VACA, LOT 1, LOT 2 & LOT 3, SECTION 1, TOWNSHIP 66, RANGE 32, AND TROPICANA SUBDIVISION, BLOCK B LOT 1, LOT 2, & LOT 3 SECTION 1, TOWNSHIP 66, RANGE 32, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00342240-000000, 00342240-000100, 00342240-000200, 342730-000000, 00342740-000000, & 00342750-000000.

WHEREAS, Marathon Petroleum, LLC is the owner of the Property and applied for a Conditional Use approval to develop a Convenience Store Providing Fuel Service on property located in the Mixed Use (MU) land use district (the “Application”); and

WHEREAS, the Planning Commission (Commission), in accordance with the provisions of Sections 101.02 and 102.75 of the City of Marathon Land Development Regulations, met to review the Application to determine its compliance with the applicable regulations on March 21st, 2011; and

WHEREAS, the Commission recommended approval of the Application to the Marathon City Council (the “Council”), subject to conditions; and

WHEREAS, the Council, in accordance with the provisions of Sections 101.01 and 102.76 of the City of Marathon Land Development Regulations (the “LDRs”), met to review the Application to determine its compliance with the City’s Comprehensive Plan and LDRs on March 29, 2011; and

WHEREAS, the Council has duly considered the recommendation of the Commission, and the information and documentary evidence submitted by City staff, Marathon Petroleum, LLC, and the residents of the City and does hereby find and determine as provided below.

FINDINGS OF FACT:

1. The applicant is proposing to re-develop 2,100 square feet of Commercial Floor Area into approximately 7,900 square feet of commercial floor area to include a convenience store with drive through accommodations and a fueling facility with six (6) pumps.
2. In accordance with Section 102.77 of the LDRs, 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 will 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;

10. Any special requirements set forth in the LDRs for the particular use involved.

11. This Development Order will constitute the Certificate of Concurrency for the project, and is valid for one year from the date of final approval by the Florida Department of Community Affairs as provided for herein.

CONDITIONS IMPOSED:

Granting approval of the Application is subject to the following conditions that must be complied with as a condition precedent to the issuance of any building permit:

- 1) The applicant shall conduct an appropriate level traffic analysis as required by Article 14, Chapter 107 of the LDRs and submit a copy of the report to the City for review and analysis;
- 2) The applicant will obtain necessary approvals from FDOT and the City for access to U.S. 1 and 73rd Street respectively (See Article 14, Chapter 107 of the LDRs);
- 3) The applicant will obtain all necessary FDEP approvals for placement and storage of fuel tanks on the property;
- 4) The applicant must apply for and receive an allocation of approximately 5,800 square feet of commercial floor area through the commercial building permit allocation system (CBPAS) process (See Article 1, Chapter 107 of the LDRs);
- 5) The applicant shall execute a Unity of Title in a form acceptable to the City Attorney for all of the property that is the subject of this Development Order;
- 6) The applicant will obtain final landscaping plan (Article 8, Chapter 107 of the LDRs) and lighting plan (Section 107.54, Chapter 107 of the LDRs) approval for the proposed use;
- 7) The applicant will obtain final fire protection plan approval in accordance with the LDRs and the Marathon City Code;
- 8) The applicant will demonstrate the proposed use meets all floodplain requirements;
- 9) The applicant will obtain final stormwater management system approval;
- 10) The applicant will fully enclose and screen the proposed use's dumpster (See Section 107.39 of the LDRs);
- 11) The applicant will obtain all required permits from SFWMD and FDOT;
- 12) The applicant will obtain sign permits for any signs proposed in the building plans to be erected on the property (See Article 7, Chapter 107 of the LDRs);
- 13) The applicant will pay all fees and assessments including, but not limited to, building permit fees, impacts, stormwater fees utility fees, and wastewater fees; and
- 14) Final site plan showing all FDOT and City approved US1 access points must be submitted and approved by City Council.

Granting approval of the Application is subject to the following conditions that must be complied with as a condition precedent to the issuance of a certificate of occupancy:

- 1) The applicant will connect to the City's wastewater management system.

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 Development Order, the LDRs, or the Marathon City Code. Failure to adhere to the terms and conditions of approval contained herein is a violation of the Marathon City 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 LDRs and the Marathon City Code, and will not be detrimental to the community as a whole; and
2. In rendering its decision, as reflected in this Development Order, 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 thirty (30) 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 LDRs. An appeal shall stay the effectiveness of this Development Order until said appeal is resolved.

5/4/2011
Date

George Garrett
George Garrett
Planning Director

This Development Order was filed in the Office of the City Clerk of this 4 day of ^{May}~~April~~, 2011.

Diane Clavier
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 Community Affairs 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 pursuant to Chapter 9J-1, Florida Administrative Code, this Development Order shall not take effect for forty-five (45) days following the rendition to the Florida Department of Community Affairs. During these forty-five days, the Florida Department of Community Affairs may appeal this Development Order to the Florida Land and Water Adjudicatory Commission, and that such an appeal stays the effectiveness of this Development Order 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 Sands Petroleum Dev. Corp.,
this 5 day of May, 2011.

attn: mikel issac
12305 S. Dixie Hwy.
Pinecrest, FL 33156

Diane Clavier

Diane Clavier City Clerk