

CITY OF MARATHON, FLORIDA
RESOLUTION 2012-47

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE REQUEST BY SINGH MARATHON RESORT PROPERTIES LLC, FOR A CONDITIONAL USE PERMIT, PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS ENTITLED "CONDITIONAL USE PERMITS", AUTHORIZING THE SITE DEVELOPMENT PROJECT OF AN EXISTING DESTINATION RESORT WITH 87 UNITS TO INCLUDE AN ADDITIONAL 16 ONE BEDROOM UNITS AT PROPERTY LOCATED AT 2600 OVERSEAS HIGHWAY, OCEAN, NEAREST MILE MARKER 48, WHICH IS LEGALLY DESCRIBED AS PARCELS A, B, AND C, OF PIRATES COVE COMMERCIAL CONDOMINIUM, ACCORDING TO THE DECLARATIONS OF CONDOMINIUM THEREOF RECORDED SEPTEMBER 19, 2007 IN OFFICIAL RECORDS BOOK 2321, PAGES 1203 THROUGH 1271, INCLUSIVE, AND ALL EXHIBITS AND AMENDMENTS THERETO, PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, TOGETHER WITH ALL APPURTENANCES THERETO APPERTAINING AND SPECIFIED IN SAID CONDOMINIUM DECLARATION, HAVING REAL ESTATE NUMBERS 00101990-000000,00101990-000200,00101990-000300, AND 00101990-000400; AND PROVIDING FOR AN EFFECTIVE DATE

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 16th day of April 2012, the City of Marathon Planning Commission, and on the 24th day of April, 2012, the City Council conducted properly advertised public hearings regarding the request submitted by Singh Marathon Resort Properties LLC, (the "Applicant"), for a conditional use permit pursuant to Chapter 102, Article 13 of the City of Marathon Land Development Regulations (the "LDRs"); and

WHEREAS, approval of the proposed project with conditions imposed is consistent with the City of Marathon Comprehensive Plan and LDRs.

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

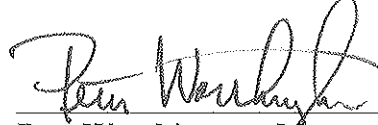
Section 1. The above recitals are true and correct and incorporated herein.

Section 2. The Applicant's requested Conditional Use Development Order for the site development project of an existing destination resort with 87 units to include 16 additional one bedroom units, a copy of which is attached as Exhibit "A," is hereby approved.

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 8th DAY OF MAY, 2012.

THE CITY OF MARATHON, FLORIDA



Pete Worthington, Mayor

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

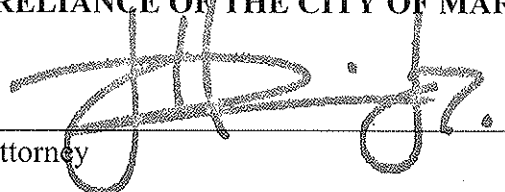
ATTEST:



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 # 2012-04**

A DEVELOPMENT ORDER APPROVING THE CONDITIONAL USE APPLICATION SUBMITTED BY SINGH MARATHON RESORT PROPERTIES LLC, FOR A CONDITIONAL USE PERMIT, PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS ENTITLED “CONDITIONAL USE PERMITS”, AUTHORIZING THE SITE DEVELOPMENT PROJECT OF AN EXISTING DESTINATION RESORT WITH 87 UNITS TO INCLUDE 16 ADDITIONAL ONE BEDROOM UNITS AT THE PROPERTY LOCATED AT 2600 OVERSEAS HIGHWAY, OCEAN, NEAREST MILE MARKER 48, WHICH IS LEGALLY DESCRIBED AS PARCELS A, B, AND C, OF PIRATES COVE COMMERCIAL CONDOMINIUM, ACCORDING TO THE DECLARATIONS OF CONDOMINIUM THEREOF RECORDED SEPTEMBER 19, 2007 IN OFFICIAL RECORDS BOOK 2321, PAGES 1203 THROUGH 1271, INCLUSIVE, AND ALL EXHIBITS AND AMENDMENTS THERETO, PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00101990-000000,00101990-000200,00101990-000300, AND 00101990-000400 (THE “PROPERTY”)

WHEREAS, Singh Marathon Resort Properties LLC (the “Applicant”), is the owner of the Property and has applied for a conditional use approval for the site development project of an existing destination resort with 87 units to include 16 additional one bedroom units on property located in the Mixed Use (MU) land use district (the “Application”); and

WHEREAS, the City of Marathon Planning Commission (the “Commission”), in accordance with the provisions of Sections 101.02 and 102.75 of the City of Marathon Land Development Regulations (the “LDRs”), met to review the Application to determine its compliance with the applicable regulations on April 16, 2012; and

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

WHEREAS, the Council, Florida, in accordance with the provisions of Sections 101.01 and 102.76 of the LDRs, met to review the Application to determine its compliance with the applicable regulations on April 24th, 2012; 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. The Applicant is proposing to redevelop 4 parcels with thirty eight thousand, three hundred and four (38,304) square feet of Commercial Floor Area and two (2) Workforce Housing units to include 16 additional one bedroom units (the "Proposed Use").
2. In accordance with Section 102.77 of the LDRs, the Commission and Council considered and determined the Proposed Use meets 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 Use minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment.
3. Satisfactory provisions and arrangements have been made concerning the following matters, where applicable:
 - a. 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;
 - b. Off-street parking and loading areas where required, with particular attention to item "a" above;
 - c. The noise, glare or odor effects of the Proposed Use on surrounding properties;
 - d. Refuse and service areas, with particular reference to location, screening and items "a" and "b" above;
 - e. Utilities, with reference to location and availability;
 - f. Screening and buffering with reference to type, dimensions and character;
 - g. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety and compatibility with surrounding properties;
 - h. Required yards and other open space;
 - i. General compatibility with surrounding properties; and
 - j. Any special requirements set forth in the LDRs for the particular use involved.

CONDITIONS IMPOSED:

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

- The Applicant shall obtain 16 transient units in excess of what has been legally established on the parcels, to be transferred onto the property via the Transfer of Building Rights (TBR's), Conditional Redevelopment Units (CRU's), or any other legally established process prior to building permit issuance. **THE GRANTING OF THIS CONDITIONAL USE DEVELOPMENT ORDER DOES NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF ANY TRANSIENT DEVELOPMENT RIGHTS OR UNITS.**
- The Applicant will obtain approval of final landscaping and lighting plans in coordination with the City Biologist prior to building permit issuance.
- The Applicant will provide fire protection plans in accordance with fire protection requirements prior to building permit issuance; specifically, compliance with all NFPA requirements.
- The Applicant will demonstrate compliance with all floodplain related requirements prior to building permit issuance.
- The Applicant shall connect to the City of Marathon Wastewater System in accordance with the City's Wastewater Utility Rules and Regulations, and pay any additional fees for impact to the wastewater system which will be due prior to building permit issuance.
- The Applicant will obtain sign permits for any additional signs erected on the property, as required under the LDRs (existing signage is compliant);
- The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year from the effective date.

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 LDRs, the Council may revoke this approval upon a determination that the Applicant or its successor or designee is in non-compliance with this Resolution, the LDRs or the Marathon City Code. Failure to adhere to the terms and conditions of approval contained herein is a violation of the LDRs and 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 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 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.

May 10, 2012
Date

George Garrett
George Garrett
Planning Director

This Development Order was filed in the Office of the City Clerk of this 11 day of May, 2012.

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 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, 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 Economic Opportunity. During those 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 Michelle Kozl, 800 Duck Key Drive,
this 11 day of May, 2012. Marathon, FL 33050



Diane Clavier City Clerk