

**CITY OF MARATHON, FLORIDA
RESOLUTION 2018-72**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING A REQUEST BY SEAVIEW COMMONS LLC FOR A CONDITIONAL USE PERMIT, PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (“THE CODE”) ENTITLED “CONDITIONAL USE PERMITS”, AUTHORIZING THE DEVELOPMENT OF SIXTY FOUR (64) TWO BEDROOM AFFORDABLE APARTMENTS ON PROPERTIES LOCATED AT AND ADJACENT TO 100 AVENUE D, WHICH ARE LEGALLY DESCRIBED AS BLOCK 7 LOTS 9, 10, AND 11 AND ADJACENT CANAL AND THE SOUTHERLY 200 FEET OF CANAL, FAT DEER KEY, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00363700-000000, 00363710-000000 & 00363720-000000. NEAREST MILE MARKER 54.

WHEREAS; Seaview Commons, LLC (The “Applicant”) filed an Application on July 1, 2018 for a Conditional Use Permit pursuant to Chapter 102, Articles 13 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS; the Applicant has proposed to redevelop fifteen (15) one bedroom apartment units and to develop forty-nine (49) additional affordable allocations into two bedroom affordable apartments on sites previously developed with four duplexes totaling eight units; and

WHEREAS; the Applicant must obtain a minimum of forty-nine (49) affordable units (based on the existence of fifteen (15) market rate allocations on the property) or as many as sixty-four (64) affordable units (based on the transfer of market rate allocations off-site), to be transferred via the Transfer of Building Rights (TBR’s), BPAS process, or any other legally established process prior to building permit issuance. THE APPROVAL OF THE REQUESTED CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT AMENDMENTS DO NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF ANY AFFORDABLE RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT.

WHEREAS; City staff reviewed the Applicant’s request for a Conditional Use Permit determining that the Applicant’s project proposal was in compliance with the City’s Comprehensive Plan and Land Development Regulations (LDRs) and further that there was no substantial impact on the City’s Level of Service (LOS); and

WHEREAS; on the 16th day of July 2018, the City of Marathon Planning Commission (the “Commission”) conducted a properly advertised public hearing (the “Public Hearings”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 respectively of the LDRs; and

WHEREAS; and on the 14th day of August, 2018 the City Council (the “Council”) conducted a properly advertised public hearing (the “Public Hearings”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

WHEREAS; the City Council made a determination that the Applicant’s request for a Conditional Use Permit, subject to the terms of the LDRs and with Conditions imposed, was in Compliance with the City’s Comprehensive Plan and LDRs and further, that the approval is in the public interest, is consistent with its policy to encourage redevelopment in Marathon, and will further the health, safety and welfare of the residents of Marathon; and

WHEREAS; the purpose of the Conditional Use Permit is to allow for the integration of certain land uses and structures within the City of Marathon, based on conditions imposed by the Council. Review is based primarily on compatibility of the use with its proposed location and with surrounding land uses and on the basis of all zoning, subdivision and other ordinances applicable to the proposed location and zoning 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 2018-12, a copy of which is attached hereto as Exhibit “A”, granting a Conditional Use Permit to Seaview Commons, LLC subject to the Conditions imposed. 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 approval by the State Department of Economic Opportunity.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 14TH DAY OF AUGUST 2018.

THE CITY OF MARATHON, FLORIDA



Michelle Coldiron, Mayor

AYES: Bartus, Cook, Senmartin, Coldiron
NOES: Zieg
ABSENT: None
ABSTAIN: None

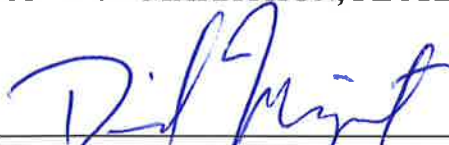
ATTEST:



Diane Clavier
City Clerk

(City Seal)

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



David Migut, City Attorney



**CITY OF MARATHON, FLORIDA
CONDITIONAL USE
DEVELOPMENT ORDER # 2018-12**

A DEVELOPMENT ORDER OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING A REQUEST BY SEAVIEW COMMONS LLC FOR A CONDITIONAL USE PERMIT, PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (“THE CODE”) ENTITLED “CONDITIONAL USE PERMITS”, AUTHORIZING THE DEVELOPMENT OF SIXTY FOUR (64) TWO BEDROOM AFFORDABLE APARTMENTS ON PROPERTIES LOCATED AT AND ADJACENT TO 100 AVENUE D, WHICH ARE LEGALLY DESCRIBED AS BLOCK 7 LOTS 9, 10, AND 11 AND ADJACENT CANAL AND THE SOUTHERLY 200 FEET OF CANAL, FAT DEER KEY, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00363700-000000, 00363710-000000 & 00363720-000000. NEAREST MILE MARKER 54.

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WHEREAS; the Applicant has proposed to redevelop fifteen (15) one bedroom apartment units and to develop forty-nine (49) additional affordable allocations into two bedroom affordable apartments on sites previously developed with four duplexes totaling eight units; and

WHEREAS; the Applicant must obtain a minimum of forty-nine (49) affordable units (based on the existence of fifteen (15) market rate allocations on the property) or as many as sixty-four (64) affordable units (based on the transfer of market rate allocations off-site), to be transferred via the Transfer of Building Rights (TBR’s), BPAS process, or any other legally established process prior to building permit issuance. THE APPROVAL OF THE REQUESTED CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT AMENDMENTS DO NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF ANY AFFORDABLE RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT.

WHEREAS; City staff reviewed the Applicant’s request for a Conditional Use Permit determining that the Applicant’s project proposal was in compliance with the City’s Comprehensive Plan and Land Development Regulations (LDRs) and further that there was no substantial impact on the City’s Level of Service (LOS); and

WHEREAS; on the 16th day of July 2018, the City of Marathon Planning Commission (the “Commission”) conducted a properly advertised public hearing (the “Public Hearings”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 respectively of the LDRs; and

WHEREAS; and on the 14th day of August, 2018 the City Council (the “Council”) conducted a properly advertised public hearing (the “Public Hearings”) regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

WHEREAS; the City Council made a determination that the Applicant’s request for a Conditional Use Permit, subject to the terms of the LDRs and with Conditions imposed, was in Compliance with the City’s Comprehensive Plan and LDRs and further, that the approval is in the public interest, is consistent with its policy to encourage redevelopment in Marathon, and will further the health, safety and welfare of the residents of Marathon; and

WHEREAS; the purpose of the Conditional Use Permit is to allow for the integration of certain land uses and structures within the City of Marathon, based on conditions imposed by the Council. Review is based primarily on compatibility of the use with its proposed location and with surrounding land uses and on the basis of all zoning, subdivision and other ordinances applicable to the proposed location and zoning district,

FINDINGS OF FACT:

1. The applicant will redevelop the project site as set out in the project site plan allowing the Applicant to construct sixty-four (64) affordable units, to include an office, pool, and common areas (See Approved Site Plan – Exhibit A” and all Plans otherwise provided and approved, or approved as revised, as part of the Applicant’s submittal):
2. In accordance with Section 102.77 of the Code, 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 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

CONDITIONS IMPOSED:

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

Conditions of Approval

- 1) Ingress and egress shall only occur from Avenue D, reserving an entrance for fire and EMS ONLY on Coco Plum Road. The Coco Plum Road entrance shall only be accessible for emergency purposes.
- 2) The Applicant agrees to participate in a cost share, proportionate to their degree of impact, for improvements to the road shoulder around the curve of Coco Plum Drive immediately contiguous with the Applicant's property.
- 3) As part of the permit application, all conditions of the Fire Marshal must be met prior to permit issuance, and hydrants must be operational prior to buildings going vertical.
- 4) City approval is required for ADA compliant parking spaces prior to Building Permit Approval.
- 5) Bike racks must be shown on the final site plan and approved prior to Building Permit Approval.
- 6) City approval is required for the stormwater management system prior to Building Permit Approval.
- 7) Applicant must obtain all outside agency approvals prior to project initiation.
- 8) City approval of the final engineering and connection to the City Wastewater Utility will be required.
- 9) The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.
- 10) A Unity of Title will be required for the three parcels subject to this review and approval prior to Building Permit Approval.
- 11) A Final Landscape Plan must be submitted showing the proper treatments and buffers, including the appropriate treatment types and trees. Since additional buffering was required and agreed to by the applicant, this additional buffering must also be reviewed and approved by the City prior to final project approval.
- 12) A Final Site Plan must be submitted showing the buildings meeting the required setbacks,

- parking locations, and access drives.
- 13) All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
 - 14) If the redevelopment is found to have any effect on the Eastern Indigo Snake, then the prescribed protection measures must be undertaken, and the information poster posted on site.
 - 15) Affordable Housing Deed Restrictions must be filed prior to building permit issuance. Said deed restrictions shall be provided in a form acceptable to the City and shall be filed with the Monroe County Clerk of Court and shall run with the land for a period of ninety-nine (99) years.
 - 16) The Applicant must obtain a minimum of forty-nine (49) affordable units (based on the existence of fifteen (15) market rate allocations on the property) or as many as sixty-four (64) affordable units (based on the transfer of market rate allocations off-site), to be transferred via the Transfer of Building Rights (TBR's), BPAS process, or any other legally established process prior to building permit issuance. **THE APPROVAL OF THE REQUESTED CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT AMENDMENTS DO NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF ANY AFFORDABLE RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT.**

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 Resolution 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; 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 City Code. An appeal shall stay the effectiveness of this development order until said appeal is resolved.

10/16/18
Date

George Garrett
George Garrett
Director of Planning

This Development Order was filed in the Office of the City Clerk of this 16 day of October 2018.

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 that 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 Brian Schmitt, 11100 Overseas Highway, Marathon, FL 33050, this 17 day of October, 2018.

Diane Clavier
Diane Clavier City Clerk

EXHIBIT "A"

SITE DATA:

RE #: 00383700710720-000000
 LOT SIZE: 2.57 ACRES (112,126.54 SF)
 ZONING: RESIDENTIAL HIGH (RH)
 LAND USE: RESIDENTIAL HIGH (RH)
 DENSITY: 8-26 UNITS PER ACRE (ALLOWED: 19 MR, 64 AFFORD.)
 MIN. LOT AREA/UNIT: MARKET RATE: 5,445 SF
 AFFORDABLE: 1,742 SF

SETBACKS:

FRONT: 10 FT
 REAR: 10 FT
 SIDE 1: 5 FT
 SIDE 2: 5 FT
 SHORELINE: 20 FT
 HEIGHT (MAX.): 37 FT
 OPEN SPACE: 0.20 (REQUIRED: 21,030 SF)
 MIN STREET FRONT: 75 FT

UNIT MIX:

AFFORDABLE:
 2 BEDROOM, 2 BATH
 800 SF (20'x40')
 OVER PARKING, 2 SPACES EACH UNIT
 TOTAL: 64 UNITS, 51,200 SF

EXISTING STRUCTURES: 10,584 SF

OFFICE BUILDING: 1,000 SF OVER WATER MANAGEMENT

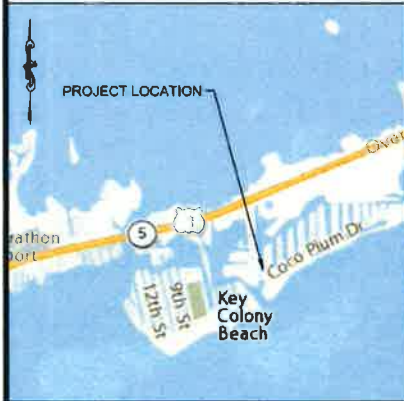
PARKING:

REQUIRED: 2 SPACES PER UNIT
 1 SPACE PER 250 SF OF OFFICE SPACE

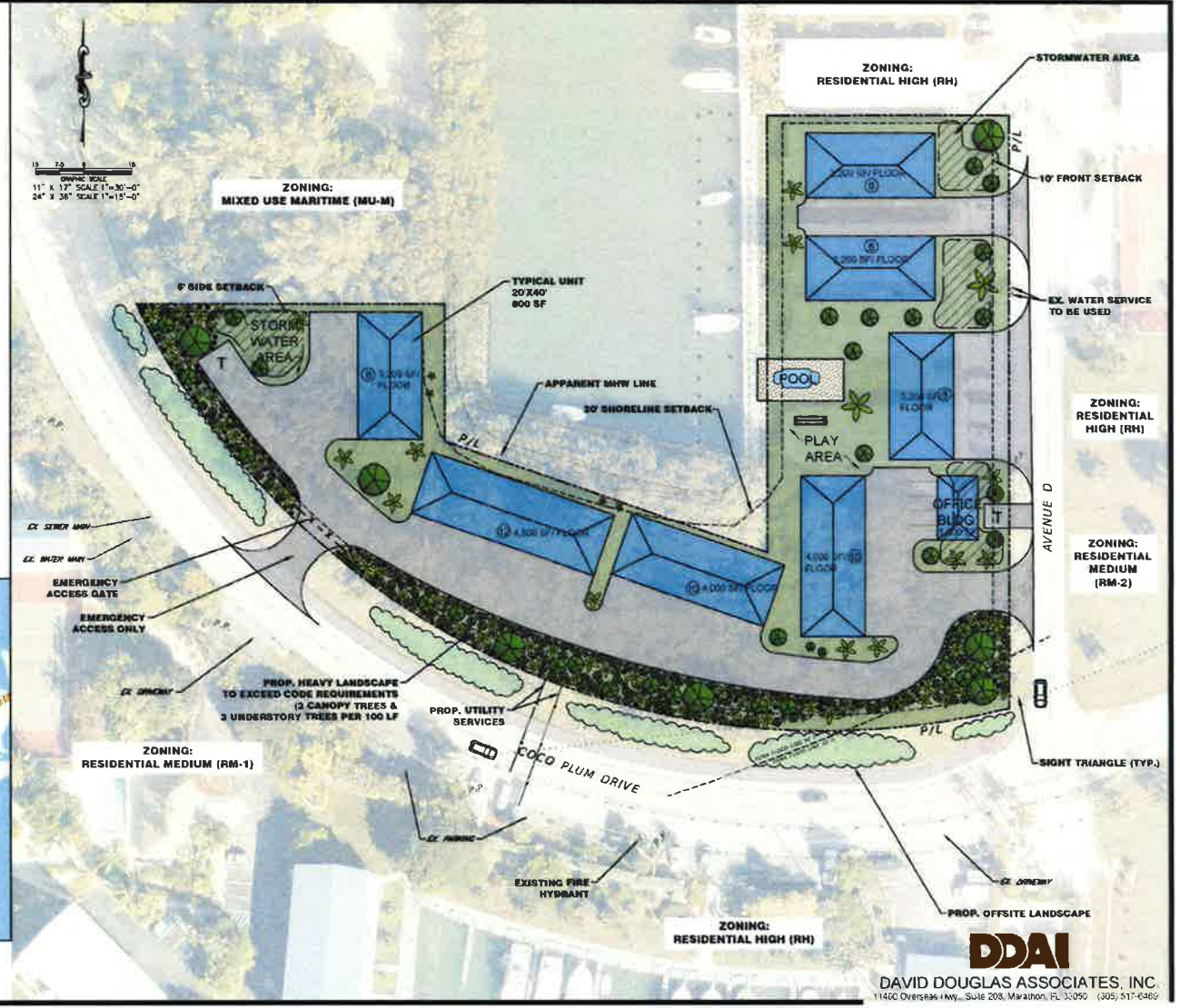
BICYCLE SPACES REQUIRED: 1 SPACE PER 10 VEHICLE SPACES
 TOTAL NEEDED: 15 SPACES W/ 25% (4) BEING CLASS I OR
 SHELTERED CLASS I/III

LANDSCAPE:

REQUIRED: TYPE 3 STREET TREATMENT
 PROVIDED: LANDSCAPE TO EXCEED CODE, HEAVY VEGETATION
 (EX: 20 TREES PER 100 LF)



Conditional Use
 SEAVIEW COMMONS



DDAI
 DAVID DOUGLAS ASSOCIATES, INC.
 11400 Overseas Hwy., Suite 203, Marathon, FL 32050 (305) 517-6469