

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2018-73**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE REQUEST FOR A SETBACK REDUCTION ALONG THE FRONT AND SIDE PROPERTY LINE; PURSUANT TO CHAPTER 102, ARTICLE 20, SECTION 102.115, "REVIEW AND APPROVAL PROCEDURES"; LOCATED AT 3301 OVERSEAS HIGHWAY; WHICH IS LEGALLY DESCRIBED AS PART OF LOT 1 AND PART OF LOT 3 AND BAY BOTTOM SOUTHERLY AND ADJACENT PART OF LOT 3, KEY VACCAS, MONROE COUNTY, FLORIDA; HAVING REAL ESTATE NUMBER 00103370-000000, NEAREST MILE MARKER 48.5.**

**WHEREAS**, on the 16<sup>th</sup> day of July, 2018, the City of Marathon (the "City") Planning Commission (the "Commission") and on the 14<sup>th</sup> day of August, 2018, the City Council (the "Council"), conducted properly advertised public hearings (the "Public Hearings") regarding the request submitted by Fisherman's Health, Inc. (Baptist Health) (the "Applicant"), for a variance pursuant to Section 102.115 of the City Code (the "Code"); and

**WHEREAS**, the purpose of the variance is to allow the Applicant to construct a temporary hospital closer than the required 30 foot setback from their property line at U.S. Highway 1. (the "Proposed Use") at the property described in the application (the "Property").

**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 2018-14, a copy of which is attached hereto as Exhibit "A", granting a variance to Fisherman's Health, Inc. 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 14<sup>TH</sup> DAY OF AUGUST, 2018.**

**THE CITY OF MARATHON, FLORIDA**

  
\_\_\_\_\_  
**Michelle Coldiron, Mayor**

AYES: Cook, Zieg, Senmartin, Bartus, Coldiron  
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:**

  
\_\_\_\_\_  
David Migut,  
City Attorney



**CITY OF MARATHON, FLORIDA  
VARIANCE  
DEVELOPMENT ORDER # 2018-14**

**A DEVELOPMENT ORDER APPROVING OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE REQUEST FOR A SETBACK REDUCTION ALONG THE FRONT AND SIDE PROPERTY LINE; PURSUANT TO CHAPTER 102, ARTICLE 20, SECTION 102.115, "REVIEW AND APPROVAL PROCEDURES"; LOCATED AT 3301 OVERSEAS HIGHWAY; WHICH IS LEGALLY DESCRIBED AS PART OF LOT 1 AND PART OF LOT 3 AND BAY BOTTOM SOUTHERLY AND ADJACENT PART OF LOT 3, KEY VACCAS, MONROE COUNTY, FLORIDA; HAVING REAL ESTATE NUMBER 00103370-000000, NEAREST MILE MARKER 48.5.**

**WHEREAS**, on the 16<sup>th</sup> day of July, 2018, the City of Marathon (the "City") Planning Commission (the "Commission") and on the 14<sup>th</sup> day of August, 2018, the City Council (the "Council"), conducted properly advertised public hearings (the "Public Hearings") regarding the request submitted by Fisherman's Health, Inc. (Baptist Health) (the "Applicant"), for a variance pursuant to Section 102.115 of the City Code (the "Code"); and

**WHEREAS**, the purpose of the variance is to allow the Applicant to construct a temporary hospital closer than the required 30 foot setback from their property line at U.S. Highway 1 (the "Proposed Use") at the property described in the application (the "Property").

**FINDINGS OF FACT:**

**A. *Special Circumstances:***

This is the only hospital in the middle keys. The structure is proposed only as a temporary measure while the main hospital is rebuilt.

**B. *Hardships:***

The property size is limited, and a working hospital is needed while the new hospital is constructed. The variance allows this to occur within the same property.

**C. *No Detriment:***

The relief will not create a substantial detriment, as determined by the Director, to the public good, substantially impair affected natural resources, in the opinion of the biologist or impair the intent and purpose of the LDRs or applicable policies under which the variance is granted. In fact a working hospital betters the health, safety, and welfare of the public.

**D. *No Special Privileges:***

The granting of the variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the identical regulatory zone in which the property is situated.

E. ***Use Authorized:***

A hospital is permitted as of right in Public zoning.

F. ***Relevant Factors:***

1. **Physical Characteristics of the proposed construction.**

The proposed construction is a modular hospital on concrete columns that meets current code.

2. **Whether the use of the property is dependent upon granting the variance.**

The use of the property is dependent on the granting of the variance.

3. **Whether granting the variance increases or decreases the danger to life and property.**

The granting of the variance decreases the danger to life and/or property.

4. **The importance to the community of the services to be provided if the variance is granted.**

The variance allows for the use and repair of the only hospital within the City of Marathon.

5. **The compatibility of the proposed variance to the surrounding properties.**

The use is the same, and thus does not alter compatibility.

6. **The ability to safely access the property by regular and emergency vehicles if the variance is not granted.**

The variance allows for the temporary structure to be located in a way to further allow access of emergency vehicles.

7. **The costs of provided governmental services if the variance is or not granted.**

There are no foreseen costs with either granting or denying the variance.

**CONDITIONS IMPOSED:**

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

1. All conditions of the permits, for the temporary hospital as well as replacement hospital.
2. Temporary hospital shall be removed within 90 days of the replacement hospital receiving CO.

**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 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, will not be detrimental to the community as a whole, and the applicant has demonstrated by competent substantial evidence that it meets the variance criteria set forth in Section 102.120 of the Code; 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 variance is hereby GRANTED with conditions.

**RECORDING:**

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

**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 variance 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.

8/21/2018  
Date

George Garrett  
George Garrett, Planning Director

This Development Order was filed in the Office of the City Clerk of this 22 day of Aug. 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 73C-44, 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 Rick Freeburg-Fisherman's Health, Inc., 6855 SW 57<sup>th</sup> Ave, Suite 600, Miami, FL 33143, this 22 day of Aug, 2018.